

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Revision No.358 of 2007**

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Ganga Nath Rai @ Ganga Nath Roy son of late Anant Narain Rai, resident of village-Habibhouar, P.S. Bahera, District-Darbhangha at present Lalpur Shioram, P.S. Baheri, District-Darbhangha.

.... .... Petitioner/s

Versus

1. Sri Sri 108 Ram Lakshman Aur Sitajee Birajman Martiman Temple of village-Habibhouar, P.S.-Bahera, District-Darbhangha
2. Khushi Jha, son of Raj Kishore Jha, resident of village Habibhouar, P.S. Bahera, District-Darbhangha.
3. Birendra Narain Rai, son of late Haribansh Narain Rai resident of village Bahibhouar, P.S. Bahera, District-Darbhangha at present Lalpur Shioram, P.S. baheri District-Darbhangha.
4. Direndra Narain Rai, son of late Haribansh Narain Rai, resident of village-Babibhouar P.S. Baheri, District-Darbhangha.
5. Murlidhar Rai, son of late Anant Narain Rai.
6. Arun Kumar Rai.
7. Krishna Kumar Rai Alias Babu Saheb, Both sons of late Shatrughan Rai.
8. Raj Kumar Rai.
9. Nand Kumar Rai.
10. Vijay Kumar Rai, all sons of Shatrughan Rai
11. Jagannath Rai.
12. Chiranjeev Rai, both sons of late Narsingh Rai.
13. Gopalje Rai.
14. Shyamje Rai, both sons of late Balbhand Rai.
15. Bhda Nath Rai, son of late Digamber Rai, all resident of village-Habibhouar, P.S. Barera, District-Darbhangha at present Lalpur Shioram, p.S. Bahera, District-Darbhangha

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Subhash Chandra Dubey  
Mr. Rajiv Kumar Choudhary

For the Respondent/s : Mr. Ranjeet Choubey  
Mr. Sanat Kumar Mishra

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**  
**ORAL ORDER**

29 01-09-2015

The learned counsel, who has filed the interlocutory application (6326 of 2009), states that the said petition is not being pressed.

As such, the said interlocutory application is dismissed as not pressed.

Heard Mr. K.N. Chaubey, the learned senior counsel for petitioner.

Mr. Anil Kumar Jha, the learned senior counsel for the opposite party nos. 2 to 4 has submitted that this revision application is not maintainable besides other grounds also on the ground that some of the parties-defendants in the suit as mentioned in the interlocutory application (I.A. No. 334 of 2011) have not been added as opposite parties in this revision application. It has been submitted that by the impugned order, the learned court below has dismissed the suit as abated and proceeding further with this revision application may result in inconsistent orders. It has been pointed out that the defendant no. 17 to 20 have not been impleaded as parties in this revision application and in this regard I.A. No. 334 of 2011 has been filed as far back as on 17<sup>th</sup> January 2011 by the opposite party praying for dismissal of this revision application for the said reason.

Mr. Choubey, the learned senior counsel for the

petitioner has accepted that a supplementary affidavit has been filed on 28.09.2012 by the petitioner wherein also the fact has been stated that the defendants as mentioned in the interlocutory application (I.A. No. 334 of 2011) have not been impleaded as parties in this revision application. It has however, further accepted by the learned senior counsel that no petition thereafter has been filed making a prayer for impleading those defendants as opposite parties in this revision application after condonation of delay.

After considering the submissions and perusal of the records, it is manifest that this revision application has been filed in the year 2007 assailing the order dated 20<sup>th</sup> January 2007 passed in T.S. No. 19 of 1998/53 of 2005 dismissing the suit as abated. In view of the admitted fact that some of the defendants in the suit have not been impleaded as parties in this revision application, the present revision application is clearly not maintainable as the further proceeding in this matter may result in consisting or conflicting order. It is not the case of the petitioner that the left out defendants are not necessary parties to this revision application.

In this view of the matter, this revision application is dismissed as incompetent.

**(V. Nath, J)**

Devendra/-

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