

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15068 of 2012

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1. Sahdeo Rai Son Of Late Bhajan Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 2. Ram Chandra Rai Son Of Ram Sahdeo Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 3. Raj Kumar Rai Son Of Ram Sahdeo Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 4. Chandeshwar Rai Son Of Ram Sahdeo Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran

.... Petitioner/s

Versus

1. Ram Prasad Rai Son Of Late Bhajan Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
2. Bataha Rai Son Of Ram Prasad Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
3. Becha Rai Son Of Ram Prasad Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
4. Pandit Rai Son Of Late Golar Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
5. Wakil Rai Son Of Late Golar Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
6. Mostt. Kalpatia Devi W/O Late Rupan Rai Resident Of Village- Kankati, P.O. & Police Station- Mehsi, District- East Champaran
7. Nagendra Rai Son Of Late Rupan Rai Resident Of Village- Kankati, P.O. & Police Station- Mehsi, District- East Champaran
8. Rajendra Rai Son Of Late Rupan Rai Resident Of Village- Kankati, P.O. & Police Station- Mehsi, District- East Champaran
9. Mostt. Kisuni Devi Wife Of Late Jai Lal Rai Resident Of Village- Mathia, P.O. & Police Station- Motipur, District- East Champaran
10. Ramlakhan Rai Son Of Late Jai Lal Rai Resident Of Village- Mathia, P.O. & Police Station- Motipur, District- East Champaran
11. Hitlal Rai Son Of Mahadeo Rai Resident Of Village- Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
12. Ram Chandra Rai Son Of Mahadeo Rai Resident Of Village- Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
13. Jangi Rai Son Of Mahadeo Rai Resident Of Village- Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
14. Ramashish Rai Son Of Late Ghuni Rai Resident Of Village- Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
15. Bilas Rai Son Of Late Ghuni Rai Resident Of Village- Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
16. Kailash Rai Son Of Late Ghuni Rai Resident Of Village- Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
17. Nathuni Sah Son Of Late Ghuni Rai Resident Of Village- Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
18. Ramdeo Rai Son Of Late Lalji Rai Resident Of Village- Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
19. Kolai Sah Son Of Late Ramdhari Sah Resident Of Village- Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran

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20. Ramnandan Rai Son Of Mulahi Rai Resident Of Village- Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 21. Ramdeo Rai Son Of Mahavir Rai Resident Of Village- Amwa, P.O. & Police Station- Mehsi, District- East Champaran
 22. Kailashia Devi W/O Bijli Rai, D/O Late Mahendra Rai Resident Of Village Mushahri Nanhkar, P.O.- Karnaul, Police Station- Sahebganj, District- Muzaffarpur
 23. Raj Kumari Devi W/O Banaras Rai, D/O- Late Mahendra Rai Resident Of Village- Baya Jagdishpur, P.O.- Baradaut, Police Station- Paru, District- Muzaffarpur
 24. Rajpati Devi W/O Yogendra Rai, D/O Late Mahendra Rai Resident Of Village- Champapur Bakhri, P.O. & Police Station- Patahi, District- East Champaran
 25. Mostt. Ramkali Devi W/O- Late Bishwanath Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 26. Umesh Rai Son Of Bishwanath Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 27. Sohan Rai Son Of Bishwanath Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 28. Rakesh Rai Son Of Bishwanath Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 29. Mithilesh Rai Son Of Bishwanath Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 30. Gautam Rai Son Of Bishwanath Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 31. Bittu Rai Son Of Bishwanath Rai Resident Of Village Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 32. Deepkant Rai Son Of Raghunath Rai Resident Of Village- Kankati, P.O. & Police Station-Mehsi, District- East Champaran
 33. Sheoji Rai Son Of Raghunath Rai Resident Of Village- Kankati, P.O. & Police Station-Mehsi, District- East Champaran
 34. Raj Kumari Devi W/O- Rajdeo Rai, D/O- Late Raghunath Rai Resident Of Village- Gosaipur, P.O.- Bahuara, Police Station- Rajepur, District- East Champaran
 35. Mostt. Pokharia Kuar W/O Late Saryug Rai Resident Of Village- Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 36. Baldeo Rai Son Of Late Saryug Rai Resident Of Village- Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 37. Basudeo Rai Son Of Late Saryug Rai Resident Of Village- Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 38. Bisun Rai Son Of Late Saryug Rai Resident Of Village- Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 39. Ramakant Rai Son Of Late Saryug Rai Resident Of Village- Kataha, P.O. & Police Station- Mehsi, District- East Champaran
 40. Gangjali Devi W/O- Nandlal Rai, D/O- Saryug Rai Resident Of Village & P.O.- Khaira, Police Station- Patahi, District- East Champaran
 41. Yashoda Devi W/O Ramchandra Rai, D/O- Thagu Rai Resident Of Village- Champapur, P.O.- Bakhri, Police Station- Patahi, District- East Champaran
 42. Mostt. Jaleshwari Kuar W/O Late Bijli Rai, D/O Late Thagu Rai Resident Of Village- Fatahpur Kataha, P.O. & Police Station- Mehsi, District- East Champaran

43. Ghana Devi W/O Yamuna Rai, D/O Late Thagu Rai Resident Of Village- Bhitdharwa Math, P.O.- Bakhri, Police Station- Patahi, District- East Champaran

44. Ramakant Rai Son Of Gorakh Rai Resident Of Village- Champapur, P.O.- Bakhri, Police Station- Patahi, District- East Champaran

45. Usha Devi W/O Harendra Rai, D/O Gorakh Rai Resident Of Village- Madhuaha Mal, P.O.- Tetaria, Police Station- Rajepur, District- East Champaran

46. Gita Devi W/O Jaichand Rai, D/O Gorakh Rai Resident Of Village- Madhuaha Mal, P.O.- Tetaria, Police Station- Rajepur, District- East Champaran

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Shakti Suman Kumar-Advocate

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

03 07-12-2015

Heard learned counsel for the petitioners.

Gone through the order impugned.

From the order impugned, it is evident that it happens to be gross case of negligence at the end of petitioners/ plaintiffs, which deprives them to avail usufruct of Order-VI, Rule-17 of the C.P.C. in the background of the fact that by way of written statement, Respondents/ defendants had already taken plea of suit being bad on account of non-joinder of necessary party under Para-6 thereof. The Respondents/ defendants have gone to further extent by disclosing the names of the necessary party. The written statement filed on 25.03.2003. Suit happens to be of the year 1996. All the witnesses on behalf of respective parties have already been examined. The stage is, argument on behalf of defendants is going

on. That means to say, inspite of written statement having filed at the end of defendants taking the plea as aforesaid, neither been controverted by the petitioners/ plaintiffs in their evidence.

Now, perceiving that the suit is going to fail on account of non-joinder of necessary party, he has applied for impleading those persons by way of amendment which, now found to be hit by limitation. Furthermore, there happens to be no explanation at the end of the petitioner to cover up long interval. Furthermore, if the prayer of the petitioners is allowed, then in that event, the new parties will have their appearance, have their pleadings and further, will put the Court under obligation to proceed afresh allowing further 20 years to come to the present stage.

Accordingly, prayer of the petitioners is found non-maintainable and is accordingly, rejected.

(Aditya Kumar Trivedi, J)

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