

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.322 of 2010

Chicho Mandal S/O Late Gulay Mandal R/O Vill.- Dilaury, P.S.- Pirpainty, Distt.- Bhagalpur. Petitioner/s

Versus

1. Mosmat Dewaki Devi, wife of Late Ram Mandal.
2. Kishto Kumar, son of late Ram Mandal.
3. Kari Kumari daughter of late Ram Mandal, all resident of village-Dilouri, P.S.- Kali Prasad, District-Bhagalpur.
4. Dezi Devi daughter of late Ram Mandal and wife of Arbind Mandal, resident of village-Lailakh, P.O-Sobour, District-Bhagalpur.
5. Usha Devi daughter of late Ram Mandal and wife of Pankaj Kumar, resident of Mohalla-Sahibganj (Bijli Ghat) P.O., P.S. and District-Sahibganj (Jharkhand).
6. Nasib Mandal S/O Jagu Mandal.
7. Ramawatar Mandal S/O Jagu Mandal.
8. Sakaldeep Mandal S/O Jagu Mandal all R/O Vill.- Dilaury, P.S.- Pirpainty, P.O.- Kali Prasad, Distt.- Bhagalpur.
9. Arbind Mandal son of late Baijnath Mandal R/O Vill.- Dilouri, P.O.- Kali Prasad, Distt.- Bhagalpur.
10. Awanti Devi daughter of late Baijnath Mandal and wife of Dilip Mandal, R/O Vill.- Aamachak, P.O and P.s. Kahalgaon Distt.- Bhagalpur.
11. Kiran Devi daughter of late late Baijnath Mandal and wife of Upendra Mandal, R/O Vill.- Aamachak, P.O and P.s. Kahalgaon Distt.- Bhagalpur.
12. Mahendra Mandal, son of late Saudagar Mandal resident of Village-Dilaury, P.S. Pirpainty, P.O. Kali Prasad, District-Bhagalpur.
13. Lale Mandal @ Bishundeo Mandal, son of late Saudagar Mandal resident of Village-Dilaury, P.S. Pirpainty, P.O. Kali Prasad, District-Bhagalpur
14. Rishandeo Mandal son of late Saudagar Mandal resident of Village-Dilaury, P.S. Pirpainty, P.O. Kali Prasad, District-Bhagalpur
15. Ambika Mandal son of late Saudagar Mandal resident of Village-Dilaury, P.S. Pirpainty, P.O. Kali Prasad, District-Bhagalpur
16. Paras Mandal, son of late Saudagar Mandal resident of Village-Dilaury, P.S. Pirpainty, P.O. Kali Prasad, District-Bhagalpur
17. Rambha Devi, daughter of late Saudagar Mandal wife of Ram Chandra Mandal

resident of Village-Nayayanpur, P.S. + P.O. Ismailpur, District-Bhagalpur

18. Babu Lal Mandal S/O Late Bharat Mandal R/O Vill.- Dilaury, P.S.- Pirpainty,
Distt.- Bhagalpur

19. Kali Devi wife of late Ram Prasad Mandal R/O Vill.- Dilaury, P.S.- Pirpainty,
Distt.- Bhagalpur

20. Jai Prakash Mandal son of late Ram Prasad Mandal resident of Village-Dilaury,
P.S. Pirpainty, P.O. Kali Prasad, District-Bhagalpur

21. Parwati Devi daughter of late Ram Prasad Mandal and wife of Umesh Mandal,
resident of Village-Jaimangal Tola, P.S. Parbatta, P.O. Sahu Parbatta, District-
Bhagalpur.

22. Gauri Devi daughter of late Ram Prasad Mandal and wife of late Phucho
Mandal resident of Village-Choti Mohanpur, P.S. Pirpainty, P.O. Khabaspur,
District-Bhagalpur

23. Prabhu Mandal S/O Late Bharat Mandal R/O Vill.- Dilaury, P.S.- Pirpainty,
Distt.- Bhagalpur

24. Bhola Mandal

25. Gorelal Mandal.

26. Sushil Mandal all sons of late Hira Mandal R/O Vill.- Dilaury, P.S.- Pirpainty,
Distt.- Bhagalpur

27. Dhurbpati Devi daughter of late Ram Prasad Mandal and wife of late Phucho
Mandal, resident of Village-Choti Mohanpur, P.S. Pirpainty, P.O. Khabaspur,
District-Bhagalpur.

28. Ramdeo Mandal S/O Late Ganeshi Mandal.

29. Panchanand Mandal S/O Late Ganeshi Mandal.

30. Moti Mandal S/O Late Ganeshi Mandal.

31. Thakur Mandal S/O Late Prasadi Mandal all R/O Vill.- Dilaury, P.S.- Pirpainty,
Distt.- Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Jha, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 11-02-2015

Heard Mr. Manoj Kumar Jha, the learned counsel appearing

on behalf of the petitioner.

By the impugned order, the learned court below has refused to allow the prayer for substitution after condonation of delay, as prayed by the plaintiff-petitioner with regard to the deceased defendant no. 1 and 5. The learned court below has held that the plaintiff has failed to establish sufficient cause for condonation of delay and further the plaintiff has also failed to make appropriate prayer for setting aside the abatement.

Mr. Jha, the learned counsel for the petitioner has submitted that in the another suit filed by the defendants which was pending before the same court between the parties, the prayer for substitution has been allowed and, on that basis, it has been canvassed that in the present suit also the same should have been allowed by the learned court below.

The learned counsel for the opposite parties, however, supported the impugned order and has pointed out that once after the abatement it was incumbent upon the plaintiff to pray for setting aside the abatement by establishing sufficient reasons for the same.

After considering the submissions and the perusal of the impugned order, it is limpid that the learned court below after considering the materials on record has come to the finding that the plaintiff has failed to establish sufficient cause for condonation of

delay. Moreover, it has also been accepted that no petition for setting aside the abatement as required under Order 22 Rule 9 C.P.C. was filed by the plaintiff establishing sufficient reasons for setting aside the abatement.

In this view of the matter, this court does not find any error of jurisdiction or material irregularity in the impugned order. The revision application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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