

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6753 of 2012

=====

RAJIV RANJAN SON OF LATE RAGHUNATH SINGH RESIDENT OF
VILLAGE-SIMRI, TOLA-MAULANA BUDDHI CHACK, P.S.-PARSA
BAZAR, DISTRICT-PATNA

.... PETITIONER/S

VERSUS

1. SRIDHAR SINGH SON OF LATE NET RAM SINGH
2. NAGENDRA SINGH SON OF LATE NET RAM SINGH
RESIDENT OF VILLAGE-RAMDEH CHAK, P.S. KARAUNA,
DISTRICT-JEHANABAD
3. MADHURI DEVI WIFE OF LATE VIDIYA NAND SINGH,
DAUGHTER OF JANKI DEVI RESIDENT OF VILLAGE-JANIDIH,
P.S. PUNPUN, DISTRICT-PATNA
4. BASANTI DEVI WIFE OF INDRAJEET SINGH, DAUGHTER OF
JANKI DEVI RESIDENT OF VILLAGE-BHOGIPUR, P.S. GAURI
CHAK, DISTRICT-PATNA
5. SARDA DEVI WIFE OF RAM SARAT SINGH RESIDENT OF
VILLAGE-BHOPATPUR, P.S. BAURIPUR, DISTRICT-PATNA
6. KUNAL SON OF AWDHESH SINGH RESIDENT OF VILLAGE-
JAGAT NARAYAN ROAD, KADAMKUAN, DISTRICT-PATNA
7. KANTI DEVI WIFE OF LATE RAGHUNATH SINGH RESIDENT
OF VILLAGE-SIMRA, TOLA MAULANA BUDHDHI CHAK, P.S.
PARSA BAZAR, DISTRICT-PATNA
8. SHIV KUMAR SINGH SON OF LATE RAGHUNATH SINGH
RESIDENT OF VILLAGE-SIMRA, TOLA MAULANA BUDHDHI
CHAK, P.S. PARSA BAZAR, DISTRICT-PATNA
9. NILU DEVI WIFE OF AKHILESH SINGH, DAUGHTER OF LATE
RAGHUNATH SINGH RESIDENT OF VILLAGE-ANANDPURI,
BORING ROAD, PATNA
10. PUNAM DEVI WIFE OF VINAY SINGH, DAUGHTER OF
RAGHUNATH SINGH RESIDENT OF VILLAGE-GHOPADPUR,
MAULANA CHAK, P.S. GAURICHAK, DISTRICT-PATNA
11. SHOBHA DEVI WIFE OF VIVEKANANAD SINGH, DAUGHTER
OF LATE RAGHUNATH SINGH RESIDENT OF MOHALLA-
JAKKANPUR, P.S. JAKKANPUR, DISTRICT-PATNA

.... RESPONDENT/S

=====

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 04-02-2016 Heard learned counsel for the petitioner who is

decedent of defendant Raghunath Singh against whom the

partition suit no.72 of 1976 proceeded ex-parte.

Because of the fact that the matter in hand could be disposed of in absence of respondent on account thereof, they are not being noticed.

From the order dated 09.01.2012 passed by Sub-Judge, IInd, Gaya (Sridhar Singh vs. Raghunath Singh & Ors.), it is apparent that suit was decided ex-parte. By way of preparation of final decree, a prayer has been made on behalf of respondent/plaintiff for appointment of Survey Knowing Pleader Commissioner. From the order impugned it transpires that original record of suit no.72 of 1976 had gone missing and on account thereof, the learned District Judge, Gaya had directed to reconstruct the record after procuring relevant documents from the party. The order impugned suggest that reconstruction has already been made however, that has been controverted by learned counsel for the petitioner stating that only preliminary degree is available on the record without having plaint, W.S. or judgment including other documents. It has also been submitted that intentionally /purposely the judgment has not been filed though preliminary decree has been filed which happens to be incorrect in the background of the fact that from second page of the decree, where the relief sought for is mentioned, it discloses to the extent of 1/3rd share while at page no.5 it contains of eight anna share that means to say half which, the learned lower court failed to perceive while

passing the order impugned.

The learned lower court is directed that to reconstruct the record as prescribed under civil court rules so that no ambiguity should persist in terms relief so sought for in consonance with the relief so granted. The aforesaid anomaly, as pointed out in forgoing paragraph is to be removed before taking further step. That being so, the order impugned is directed to be kept in abeyance till removal of the aforesaid anomaly which goes to the root of the suit.

With the aforesaid observation, instant petition is disposed of.

(Aditya Kumar Trivedi, J.)

PN/-

U			
---	--	--	--