

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.33 of 2016

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Raushan Ara Wife of Mohammad Rafique Resident of Vill- Fursatpur Pragana Goa,
PS- Persa at Present PS Derni, District Saran.

.... Petitioner.

Versus

1. Ebrar Ahmed Son of Mustaque Ahmed
2. Ishrat Zahan Wife of Mustaque Ahmad
3. Iffat Zahan@Naaz daughter of Mustaque Ahmed
4. Farhat Zahan@Guriya daughter of Mustaque Ahmed
5. Apsana Khatoon Daughter of Mustaque Ahmed.
6. Asrar Ahmed Son of Mustaque Ahmad All resident of Vill-Fursatpur , PS- Derni ,PO- Sutihar, distt Saran.
7. Moinul Haque
8. Niyaz Ahmed. Both Opposite Party no. 7 and 8 is son of late Abdul Hakim, both Opposite Party No. 7 aand 8 is Son of late Abdul Hakim Both resident of Village- Jitwarpur , PS Derni Dist Saran.
9. Ezaz Ahmed son of Mohammad Khan resident of PS Garkha, district Saran.
10. Rahmatullah Ansari son of late Emam Ali Ansari resident of Village- Sutihar tola PS Derni District Saran.
11. Safira khatoon daughter of late Muzzafer Hussain , Wife of late Hadaittullah Main resident of Village- Fursatpur P/s Persa at Present PS Derni, District Saran at Present resident of Village- Arna, PS Bheldi , District Saran.

.... Opposite parties.

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Appearance :

For the Petitioner/s : Mr. Raj Kamal

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 02-05-2016

V.Nath, J.

Heard Mr.Ghosrway, the learned counsel

appearing for the petitioner both on merits as well as in the
interlocutory application (I.A.No.3053/2016).

The defendant in the suit is the petitioner in this
revision application challenging the order by which the ex parte
decree passed in the suit has been set aside by the impugned order.



During the course of submission, it has been accepted that the T.S.No.563/2002 was filed by the plaintiff-opposite party no.1 for declaration of right, title and interest over the suit property. Subsequently, the said suit was decreed on 21.05.2012. Some of the defendants, thereafter, filed a petition before the court under Order 9 Rule 13 C.P.C. praying for setting aside the said ex parte decree. By the impugned order the learned court below has allowed the said petition and has set aside the ex parte decree dated 21.05.2012 and restored the suit to its original position. The present revision application has been filed by one of the defendants in the suit praying for setting aside the impugned order.

During the course of submission, Mr. Ghosrway, learned counsel appearing for the petitioner has submitted that the present defendant-petitioner is a purchaser of the suit property from the plaintiff-opposite party no.11 prior to the filing of the T.S.No.563/2002. It has, therefore, been accepted that no relief in the suit was claimed against the present petitioner. It has also been accepted during the course of submission that the plaintiff of the T.S.No.563/2002 had earlier filed C.R.No.13/2016 assailing the order by which the ex parte decree has been set aside as impugned in this revision application but the same had been dismissed by this Court. The aforesaid facts clearly demonstrate that the present petitioner is

admittedly a person deriving the right, title and interest through the plaintiff of T.S.No.563/2002. Even otherwise also the present petitioner cannot be said to be a person aggrieved by the impugned order by which the ex parte decree has been set aside and the suit has been restored to its original position.

In this view of the matter, this Court does not find that the learned court below has committed any error of jurisdiction and illegality in the impugned order requiring interference by this Court.

The revision application is, accordingly, dismissed.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.05.2016
Transmission Date	NA