

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8814 of 2014

=====

1. Upendra Yadav Son of Late Sukh Deo Yadav Resident of Village - Baijnathpur,
Police Station - Saur Bazar, District - Saharsa.

.... Petitioner/s

Versus

1. Shri Umesh Kumar Yadav Son of Sri Deo Dutt Yadav.
2. Prabudh Kumar @ Babloo Son of Shri Umesh Kumar Yadav. Both are residents
of Village - Baij Nathpur, Police Station - Sour Bazar, District - Saharsa.
3. Jagdish Yadav.
4. Bhageshwar Yadav Both are sons of Late - Bajarangi Yadav.
5. Yogendra Yadav Son of Jagdish Yadav.
6. Pappu Kumar Yadav.
7. Lalo Kumar Yadav.
8. Munna Kumar Yadav Nos 6 to 8 are sons of Yogendra Yadav.
9. Kumari Mamta Daughter of Bimal Kumar.
10. Suresh Kumar Yadav.
11. Brahma Deo Yadav. Both are sons of Deo Dutt Yadav.
12. Jauhar Yadav.
13. Subhash Yadav. Both are sons of Bhagesh Yadav.
14. Smt. Kaushalya Devi wife of Deo Dutt Yadav. All Nos. 3 to 14 are residents of
village - Baijnathpur, Police Station - Saur Bazar, District - Saharsa.

.....Respondents 2nd Set

15. Smt. Urmila Devi Wife of Yogendra Yadav Resident of Village - Baijnathpur,
Police Station - Saur Bazar, District - Saharsa.
16. Smt. Janki Devi Daughter of Bajarangi Mandal and Wife of Sukh Deo Yadav,
Sahuri Saknat resident of Village AND Post Office - Salabua, District - Saharsa.
17. Yogendra Yadav Son of Sukh Deo Yadav Resident of Village AND Post Office
- Baijnathpur, Police Station - Saur Bazar, District - Saharsa.
18. Dig Vijay Kumar.
19. Bipin Kumar. Both are sons of Suresh Kumar Yadav.
20. Sanjay Kumar Son of Ram Deo Yadav.
21. Aman Kumar Son of Jawahar Yadav.
22. Ankit Kumar Son of Subhash Yadav. Nos 18 to 22 are residents of village -

Baijnathpur, Police Station - Saur Bazar, District - Saharsa.

.... Respondents 3rd Party

.... Respondents.

=====

Appearance :

For the Petitioner/s : Mr. Prabhas Ranjan, Adv

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 25-04-2016

Nobody appears on behalf of the petitioner even on repeated calls.

This writ application has been filed under Article 227 of the Constitution of India for quashing the order dated 12.02.2014 passed in Title Suit No. 60 of 1990 rejecting the petition dated 09.09.2013 filed by the defendant-petitioner under Order 9 Rule 13 under Section 151 C.P.C.

On the perusal of the impugned order, it transpires that the learned court below has made observation that there has been no ex parte decree in the suit which is still pending and therefore, the provision of law has been wrongly mentioned though the prayer for recall of the order dated 08.10.2004 has been made by which the suit has been directed to proceed ex parte against the defendant-petitioners. It has further been found that the petition has been filed after delay of about 9 years taking the plea that the notice has not been served upon him. The learned court below has disbelieved the



explanation of the defendant-petitioner taking notice of the fact that the own brother of the defendant-petitioner is also one of the defendants in the suit and has been participating in the proceeding of the suit after recall of the ex parte order against them. The reasons assigned by the court below in the impugned order does not seem to be unreasonable or perverse in any manner.

As such this Court does not find any merit in this application which is accordingly dismissed.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19.05.2016
Transmission Date	N.A.