

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14142 of 2013

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1. Umesh Kumar Rai Son of Late Jiyalal Rai Resident of Village - Ganeshpur, P.O. & P.S. - Ahiyapur, District - Muzaffarpur
 2. Suresh Rai Son of Late Jiyalal Rai Resident of Village - Ganeshpur, P.O. & P.S. - Ahiyapur, District - Muzaffarpur
 3. Ashok Kumar Rai Son of Late Jiyalal Rai Resident of Village - Ganeshpur, P.O. & P.S. - Ahiyapur, District - Muzaffarpur
 4. Lakshmi Kumar Rai @ Bholai Rai, Sons of Late Jiyalal Rai Resident of Village - Ganeshpur, P.O. & P.S. - Ahiyapur, District - Muzaffarpur

.... Petitioners

Versus

1. Smt. Soniya Devi Wife of Mewa Lal Rai Resident of Village - Mazirpur, P.O. & P.S. - Ahiyapur, District - Muzaffarpur
2. Sitaram Rai Son of Late Jivan Rai Resident of Village - Ganeshpur, P.O. & P.S. - Ahiyapur, District - Muzaffarpur
3. Lal Babu Rai Son of Late Jivan Rai Resident of Village - Ganeshpur, P.O. & P.S. - Ahiyapur, District - Muzaffarpur
4. Shivjee Rai Son of Late Jivan Rai Resident of Village - Ganeshpur, P.O. & P.S. - Ahiyapur, District - Muzaffarpur
5. Awadhesh Rai Son of Late Mewalal Rai Resident of Village - Ganeshpur, P.O. & P.S. - Ahiyapur, District - Muzaffarpur

.... Respondents.

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Appearance :

For the Petitioners : Mr. Arvind Kumar Verma, Advocate.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 04-10-2016 Heard learned petitioners as well as learned counsel appearing on behalf of respondent no. 1.

2. Because of the fact that petitioners happen to be heirs of defendant no. 1 Jiyalal Rai, who died after filing of the W.S. on account thereof, petitioners were not at all expected to file additional W.S., in the background of the fact that they would not be allowed to deflect thereof, that means to say pleading whatever

been made at the end of their ancestor, will bind them. Therefore, having their predecessor debarred subsequently due to procedural lapses, happens to be not so important, whereupon order dated 09.04.2013 would not require interference. Consequent thereupon, the instant petition is rejected.

3. However, the learned court below will see that opportunity having been allowed in favour of defendant no. 1 Jialal Rai (since deceased) by way of recalling of the specific order whereunder he was debarred to contest the suit on account of failure to produce the list of witnesses at the cost of Rs. 5,000/- and further having been affirmed under C.W.J.C. No. 22933 of 2011 vide order dated 22.12.2011, along with the fact that aforesaid defendant no. 1 died on 12.01.2012, whereupon petitioners have been substituted, and further, even duly expressed by the learned counsel for the respondent no.1, it is expected at the end of the learned lower court to pass appropriate order on a petition having been filed and pending since before on behalf of the petitioners on that very score.

(Aditya Kumar Trivedi, J)

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