

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.1514 of 2017

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Hiralal Singh, son of Late Surya Narayan Singh, resident of village - Khokasi,
P.S. & Anchal - Parihar, Post - Barahi, District - Sitamarhi.

... .. Appellant

Versus

1. Sandhya Devi @ Sanjha Devi wife of Late Raj Narayan Singh
2. Bindeshwar Singh
3. Ravindra Narayan Singh
4. Devendra Singh
2 to 4 sons of Late Raj Narayan Singh
5. Ram Prakash Singh
6. Manishankar Singh
7. Raghvendra Singh
5 to 7 are sons of Late Ramchandra Singh
8. Bimla Devi
9. Renu Devi
8 and 9 are daughters of Late Ramchandra Singh
All residents of Pakarsama P.S. - Benipatti, District - Madhubani.
10. Most. Khako Devi , daughter of Late Surya Narayan Singh, wife of Late Sri
Narayan Singh, resident of village - Madeopatti, P.S. - Jaleswar District -
Mohottari (Nepal).
11. Shyamkishore Singh
12. Kewal Kishore Singh
11 and 12 are sons of Late Rajnarayan Singh, resident of village - Khokasi,
Post - Barahi, P.S. & Anchal - Parihar, District - Sitamarhi.
13. Most. Kaushalya Devi, daughter of Late Rajnarayan Singh wife of late Ram
Vilakshan Singh, resident of village + Post - Narha Gachhi Tola, P.S. -
Bajpatti, District - Sitamarhi.
14. Smt. Veena Devi D/o late Raj Naraya Singh, wife of Dilip Kumar Singh
resident of village - Sahasram, P.O. - Barahi, P.S. - Parihar, District -
Sitamarhi.

... .. Respondents

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Appearance :

For the Appellant/s : Mr. Alok Kumar Jha
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER



2 08-11-2017 This application has been filed under Article 227 of the Constitution of India against an order, dated 14.07.2017, passed in Misc. Case No. 20 of 2015/C.I.S. No. 78/2015, whereby learned Munsif, Sadar, Sitamarhi, has dismissed an application filed by the petitioner for exhibiting certain documents and for calling for the originals of the said documents.

The said Misc. Case No. 20 of 2015/C.I.S. No. 78 of 2015 has been filed for setting aside an *ex parte* decree passed in Partition Suit No. 32 of 1995, dated 16.02.1996. Learned court below has dismissed the application filed on behalf of the petitioner mainly on the ground that in a proceeding under Order 9 Rule 13 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC'), the applicant is required to satisfy the court that the summons was not duly served, or that he was prevented by any sufficient cause from appearing when the suit was called for hearing. Upon reaching such conclusion only, the court is required to make an order setting aside the decree.

The documents which the petitioner wanted to be exhibited, in the opinion of the court below, were not germane for decision under Order 9 Rule 13 of the CPC.

I do not find any legal infirmity or any other valid reason



to interfere with the impugned order.

This application has no merit and is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

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