

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.156 of 2016

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Smt. Nutan Kumari @ Nutan Mishra, D/o late Baithan Thakur @ Shailendra Nath Thakur and W/o Dr.Sanjeev Kumar Mishra resident of village-Goshaidaspur, P.S.-Champanagar, P.S.-Nathanagar, District-Bhagalpur at present Mohalla-Manik Sarkar Road, Bangali Tola, P.S. Kotwali (Adampur), District-Bhagalpur. Petitioner.

Versus

1. Sri Yugal Mandal, Son of Late Chunchunm Mandal.
2. Sri Rajkumar Mandal Son of Sri Shyam Mandal.
3. Smt. Tabho Devi wife of Sri Binod Yadav (D/o Smt. Soniya Devi deceased W/o Sri Saudahar Yadav?.
4. Sri Jahindra Yadav.
5. Sri Mahesh Yadav.
6. Sri Shaligram Yadav 4 to 6 S/o Late Hadu Yadav.
7. Sri Kamleshwari Yadav Son of Late Gulab Yadav.
8. Sri Yogesh Yadav.
9. Sri Pawan Yadav.
10. Sri Subhjash Yadav.
11. Sri Bipin Yadav.
12. Sri Mukesh Yadav 8 to 12 S/o Late Gulab Yadav.
13. Sri Umesh Mandal.
14. Sri Yogendra Mandal 13 and 14 Son of Late Ramcharan Mandal.
15. Sri Bhudeo Mandal Son of Late Baiju Mandal.
16. Sri Chhanguri Mandal Son of Late Juthan Mandal.
17. Sri Kaleshwar Mandal Son of Late Sumeri Mandal.
18. Mostt. Fuhiya Devi Wife of Late Paras Mandal Son of Late Sumeri Mandal.
19. Sri Mukesh Mandal.
20. Sri Ashish Mandal Both minor Son of Late Paras Mandal Son of Late Sumerti Mandal through their next friend and natural guardian mother Mostt. Fuhiya Devi, plaintiff no.18.
21. Smt. Nirmala Devi Wife of Late Baithan Thakur @ Shailendra Nath Thakur.
22. Smt. Poonam Kumari.
23. Smt. Asha Kumari.
24. Smt. Rima Kumari D/o Late Baithan Thakur @ Shailendra Nath Thakur.
25. Smt. Shalini Kumari.
26. Smt. Reshmi Kumari.
27. Sri Shibendra Nath Thakur 22 to 27 D/o and Son of Late Baithan Thakur @ Shailendra Nath Thakur.
28. Sri Dayanath Thakur Son of Sri Satyendra Nath Thakur.
29. Sri Prem Thakur Son of Sri Dayanath Thakur.
30. Sri Ashok Kumar Thakur Son of Late Yogendra Nath Thakur.
31. Sri Manoranjan Thakur since deceased in year 2013.
32. Sri Sagar Mohan Thakur since deceased in year 2012.
33. Sri Ganga Mohan Thakur.
All sons of Late Rabindra Nath Thakur.
34. Sukinya Devi Wife of Late Chitranjan Thakur Son of Late Rabindra Nath Thakur.



35. Sri Abinav Thakur.

Son of late Chitranjan Thakur Son of Late Rabindra Nath Thakur.

Sl. No. 21 to 35 residents of Mohalla and P.O. Champanahar, P.S.-
Nathnagar, District-Bhagalpur.

36. Asim Khan.

37. Juman Khan.

38. Md. Suleman

39. Md. Nishar.

O.P.No.36 to 40

40. Md. Irshad Son of Late Nakir Khan.

41. Taleshwar Khan since deceased.

42. Basulat Khan .O.P.No.42 and 43

43. Islam Khan Son of Late Sultan Khan.

44. Mosraf Khan Son of Late Sultan Khan since deceased.

45. Akub Khan Son of Late Mulan Khan.

46. Mansur Khan.

47. Chandsur Khan .

O.P.No.46 to 48.

48. Manjur Khan Son of Late Anish Khan.

Sl.No. 36 to 48 residents of village and P.O.-Bathoria, P.S.-Nathnagar,
District-Bhagalpur now Shahganji Ahsraf Nagar, P.S.-Habibpur,
District-Bhagalpur.

49. Siraj Khan Son of Sahid Khan.

Resident of Village Badre Alampur Parbetti, P.S.-Jagdishpur, District-
Bhagalpur. -Plaintiffs /Defendants 2 to last...Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

5 19-05-2017

Heard Mr. Deepak Kumar Sinha, learned

counsel appearing for the petitioner.

By the impugned order the learned court below
has allowed the prayer for substitution of the heirs and legal
representative of the defendant nos.20 and 21 namely Talewa
Khan and Mosraf Khan on the prayer made by the plaintiff for
substitution after setting aside abatement and condonation of
delay.



The petitioner in the present application is the defendant no.1 in the suit but admittedly the present petitioner is not the heir and legal representative of the deceased defendant nos.20 and 21 and does not represent the interest of those deceased defendants in any manner. It is also apparent that the heirs and legal representatives of the deceased defendant nos.20 and 21 have not joined the present petitioner in challenging the said order of their substitution in the suit. During the course of submission, this Court has not been persuaded to hold that the present petitioner can be legally entitled being the aggrieved person to assail the legal sustainability of the impugned order. Even otherwise also, the learned court below by the impugned order has only condoned the delay, set aside the abatement and thereafter passed the order for substitution of the heirs and legal representatives of the deceased.

In the aforesaid background facts, this Court does not find that the learned court below has committed error and illegality in passing the impugned order.

The revision application is accordingly dismissed.

(V. Nath, J)

Nitesh/-

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