

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.42 of 2017

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Mohammaddin S/o Late Md. Aziz, Resident of Chak Abdul Wahi, P.S.- Qazi,
Mohammadpur, Ward No. 27, District- Muzaffarpur.

... .. Petitioner/s

Versus

Mohammad Rafique S/o Late Md. Zahur, Resident of Mohalla- Chak Abdul
Wahd, P.S.- Qazi Mohammadpur, Ward No. 27, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey
For the Respondent/s : Mr.

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

ORAL ORDER

3 03-11-2017 By the impugned order, dated 21.12.2016, learned Court
of Munsif (East), Muzaffarpur, has allowed an application filed
by the Opposite Party under Order 9 Rule 13 of the Code of
Civil Procedure, 1908, and has accordingly set aside the *ex-
parte* judgment and decree, dated 03.09.2007/17.09.2007.

Learned Counsel appearing on behalf of the petitioner has
submitted that the Opposite Party had full knowledge about the
pendency of the suit, which is evident from the stand taken on
his behalf in a proceeding under Section 144 of the Code of
Criminal Procedure, 1973 before the concerned Sub Divisional
Officer. He has also submitted that despite issuance of notice
through the process server, as well as registered post, and
publication of notice in newspaper, the Opposite Party did not
appear, whereafter the Trial Court was left with no other option,



than to pass ex-parte judgment and decree.

I have perused the impugned order, from which I find that the Court below has considered different documents on record while considering the plea of the Opposite Party that the notice were not served on him.

In any view of the matter, I do not consider it appropriate to interfere with an order, whereby the Court below has set aside *ex-parte* judgment in exercise of power under Order 9 Rule 13 of the Code of Civil Procedure, 1908.

This application is, accordingly, dismissed.

Prabhakar Anand/-

(Chakradhari Sharan Singh, J)

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