

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.1360 of 2016

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Md. Anwar Ali son of Md. Halim resident of Mohalla- Telhata Bazar, P.O. & P.S.-
Siwan Town, District- Siwan.

.... Petitioner

Versus

1. Md. Akbar Hussain
2. Idrish Sah
3. Md. Kalimullah All son of Late Hafusullah resident of Village- Kaithal, P.O. & P.S.- Mairwa, District- Siwan.
4. Rabaiya Khatoon wife of Late Raj Moahamad resident of Village- Hasanpura, P.O. & P.S.- Husainganj, District- Siwan.
5. Sabaiya Khaton wife of Istahak Ahmed All are resident of Village- Salempur Takiya P.O. & P.S.- Salempur, District- Siwan.
6. Bibi Saleha wife of Asraf Ali
7. Bibi Asia Khaton wife of Aaraf Ali Both are resident of Mohalla- Sekh Mohalla- Mirchai Sah Ka Takiya, P.O., P.S. & District- Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arbind Kumar Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 20-04-2017

This matter has been placed under the heading to be mentioned at the instance of the learned counsel for the respondents.

Heard Mr. Janardan Singh, learned senior counsel appearing on behalf of the petitioner and Mr. Ranjeet Kumar, learned counsel appearing for the respondent no.1 who have jointly submitted that the respondent nos.6 & 7 of this application are only proforma respondents in this application. It has been further submitted by Mr. Ranjeet Kumar, learned counsel for the respondent no.1 that the respondent nos. 1 to 5 are closely related with each other, and he has



been instructed to represent the remaining respondent nos.2 to 5 as well.

The present application has been filed on behalf of the plaintiff-petitioner assailing the order dated 06.09.2016 whereby the evidence of the petitioner was closed in Misc.Case No.48/2011 filed by the respondent nos.1 to 5 under Order 9 Rule 13 C.P.C. for setting aside the ex parte decree. Further prayer is also for quashing the subsequent order dated 28.09.2016 and 30.09.2016 by which the learned court below has refused to recall the earlier order closing the evidence, and hearing on behalf of the petitioner respectively.

Mr.Ranjeet Kumar, learned counsel appearing for the respondent no.1 has categorically submitted that he has no objection to the reliefs for quashing the impugned orders as sought for in the present application by the petitioner but his prayer is that after quashing the said orders, a time limit be fixed for disposal of the Misc.Case No.48/2011.

Mr. Singh, learned senior counsel appearing on behalf of the petitioner has also no objection to the prayer for fixing a time limit for disposal of the aforesaid Misc.Case No.48/2011.

After considering the stand on behalf of the respondent no.1 to 5 expressing consent for the grant of the reliefs as prayed by the petitioner, this application is allowed and the impugned orders dated 06.09.2016, 28.09.2016,30.09.2016 passed by the learned



court below are accordingly quashed. Further as the learned counsel for the parties have agreed that a time limit be fixed for disposal of the Misc.Case No.48/2011 and have further agreed that the parties to the miscellaneous case will fully cooperate in the disposal of the said miscellaneous case within the time limit fixed by this Court, the learned court below is accordingly directed to dispose of the Misc.Case No.48/2011 in accordance with law within a period of three months from the next date fixed after the receipt/production of a copy of this order. The learned court below shall have the liberty to proceed in accordance with the provisions of the C.P.C.if any of the parties to the miscellaneous case will not cooperate in the disposal of the miscellaneous case within the time limit.

(V. Nath, J)

Nitesh/-

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