

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1017 of 2016

- =====
1. Hira Singh
 2. Anil Kumr Singh
 3. Sunil Kumar Singh
 4. Manoj Kumar Singh
 5. Mukesh Kumar Singh
- All Sons of Shri Janardan Prasad Singh All residents of Nandan Singh Tola Saharsa, Police Station and District Saharsa
6. Smt. Mina Devi Wife of Jitendra Prasad Singh, Daughter of Janardan Prasad Singh resident of village - Hardiya, Police Station Waliya, District - Begusarai
 7. Smt. Archana Singh @ Urmila Devi Daughter of Shri Janardan Prasad Singh resident of Mohalla - Gandhi Path, Saharsa, Police Station and District Saharsa
 8. Smt. Kavita Rani @ Malti Devi Daughter of Janardan Prasad Singh resident of Mohalla - Gandhi Path, Saharsa, Police Station and District Saharsa
 9. Smt. Meera Kumari Wife of Shri Arun Prasad Singh resident of village - Bhadrai, Police Station Gogari, District Khagaria
 10. Smt. Jyoti Kumari daughter of Janardan Prasad Singh resident of Mohalla - Gandhi Path, Saharsa, Police Station and District Saharsa

.... Petitioner/s

Versus

1. Munna Kasera
2. Renu Kasera
3. Dhanu Kasera
4. Raju Kasera
5. Yogendra Kasera Sons of Late Arjun Prasad Sah Kasera All residents of Mohalla - Saharsa Tola Sarahi, Police Station and District Saharsa

---- Defendants 1st set

6. Gulab Sah
 7. Ramesh Sah
 8. Kulendra Sah
- Sons of Satyadeo Sah
9. Rabindra Kumar Sah
 10. Lal Bahadur Sah
- Son of Bakeshwar Sah
11. Hemendra Kumar Sah
 12. Dilip Kumar Sah
- Sons of Harihar Sah
- Residents of Mohalla - Saharsa Tola Sarahi, Police Station and District Saharsa at Present residing at Dahlan Chowk, Saharsa, Police Station and District Saharsa

---- Defendants 2nd set

13. Dashrath Sah
 14. Laddu Sah
- Sons of Late Chandu Sah
- Residents of Mohalla - Saharsa, Tola Sarahi, Police Station and District Saharsa



15. Chandeshwari Prasad Yadav Son of Sundar Yadav resident of Saharsa Mir Tola, Police Station and District Saharsa
16. Ram Babu Swarnkar Son of Bihari Sah resident of Mohalla Sarahi, Police Station and District Saharsa
17. Bhupendra Sah
18. Sanoj Sah
19. Pravin Sah
- All sons of Late Gopal Sah
- Resident of Mohalla - Saharsa Gandhi Path, North of Ashok Talkies, Police Station and District Saharsa
20. Chandrakala Devi Widow of Late Shiv Prasad Gupta resident of Mohalla Saharsa Tola Bataraha Police Station and District Saharsa
21. Ramnath Choudhary Son of Siyaram Choudhary resident of Shankar Chowk Saharsa, Police Station and District Saharsa
22. Harihar Sah Son of Ramauter Sah resident of Nandan Sah Tola Saharsa, Police Station and District Saharsa
23. Smt. Sanju Devi Wife of Shri Mahendra Prasad Sah resident of village - Hal Gangjala, West of Chowk Road, Police Station and District Saharsa
24. Mahinandan Choudhary Son of Late Dukha Choudhary resident of village - Sahuriya, Police Station Saur Bazar, District Saharsa
25. Devo Sah Son of Late K. Sah All residents of Mohalla - Saharsa Tola Sarahi, Police Station and District Saharsa Ward No. 5, Police Station and District Saharsa
26. Janardan Choudhary Son of Late Naiwat Choudhary resident of village - Nariyar Tola Bengaha Police Station and District Saharsa
27. Parmeshwar Choudhary Son of Lakhan Choudhary resident of village - Sahuriya, Police Station Sor Bazar, District Saharsa
28. Deepak Kumar Singh Son of Shri Nand Kishore Singh resident of Mohalla Naya Bazar, Ward No. 2/3 under Municipality Saharsa, Police Station and District Saharsa

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ambuj Nayan Chaubey
For the Respondent/s : Mr.

=====

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**
ORAL ORDER

4 06-12-2017

Heard the learned counsel for the petitioners.

Nobody appears on behalf of the respondents.

The petitioners have filed this civil miscellaneous
petition against the order dated 29.07.2016 passed by Sub Judge



IV, Saharsa in Title Suit No.28 of 2003 by which the learned Sub Judge dismissed the petition of the petitioners-plaintiffs for substituting the legal heirs of Bhuvaneshwari Devi, the plaintiff who died on 03.02.2007 on the ground that the petitioners did not file the petition on affidavit.

On the face of the record, it appears that the learned Sub Judge became hyper technical. Although it is submitted that affidavit was on the record along with the substitution petition but even if there was no affidavit, the learned Sub Judge should have allowed the petitioners to file affidavit along with substitution petition. The learned Sub Judge has committed jurisdictional error in rejecting the petition for substitution of the plaintiff.

Accordingly, the order dated 29.07.2016 is set aside. Civil miscellaneous petition is allowed. The petitioners are allowed to be substituted in place of Bhuvaneshwari Devi, the plaintiff.

(Prabhat Kumar Jha, J)

Saurabh/-

U		T	
---	--	---	--

