

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.154 of 2014

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1. Dharamdeo Raut @ Dharamdeo Yadav s/o late Bishwanath Raut @ Bishwanath Yadav resident of Bangra Tole, Ramchandrapur, P.S. Daraunda, Distt. Siwan

.... Petitioner/s

Versus

1. Ramchandra Prasad s/o Jagarnath Prasad
2. Nunu Prasad
3. Binod Gupta
4. Bijay Kumar Gupta
5. Ajay Kumar Gupta
6. Manoj Kumar Gupta
7. Sanjay Kumar Gupta
8. Anand Kumar Gupta
9. Abhimanyu Kumar Gupta
10. Ajit Kumar Gupta all sons of Ramchandra Prasad, residents of Bal Bangra Tole, Ramchandrapur, P.S. Daraunda, Distt. Siwan
11. Lalan Singh
12. Kedar Singh both sons of late Singhasan Singh
13. Kashinath Singh s/o late Raghuni Singh
14. Nandkishore Raut s/o Bishwanath Raut
15. Pati Devi w/o Bali Raut
16. Awadh Kishore Raut s/o Paras Raut
17. Prabhavati Devi W/o Amir Lal Yadav, d/o Bishwanath Raut, All residents of Bal Bangra Tole, Ramchandrapur, P.S. Daraunda, Distt. Siwan

.... Opp.Parties

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Appearance :

For the Petitioner/s : Mr. Sanat Kumar Mishra, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 27-04-2017

Heard learned counsel for the petitioner and perused the records.

This civil revision petition has been filed against the order dated 20.08.2014 passed in Miscellaneous Case No. 10/2009 by which the learned Munsif-II, Siwan recalled the order dated



9.10.2004 and ordered to restore the Title Suit No. 255 of 1992 to its original file.

It emerged out from the record as well as the impugned order that Title Suit No. 255 of 1992 was filed by Govind Prasad and others. The aforesaid suit was dismissed in default on 09.10.2004 against which a petition under Order 9 Rule 9 of the Code of Civil Procedure was filed in the year 2014 which was allowed by the impugned order dated 20.08.2014.

The stand of the opposite parties in the application filed under Order 9 Rule 9 was that the aforesaid Title Suit No. 255 of 1992 was being looked after by the original plaintiff Govind Prasad, who was a very old person and died during the pendency of the aforesaid Title Suit. Thereafter the concerned *Tayid* was looking after the aforesaid suit but the aforesaid *Tayid* left *pairvi* of the aforesaid suit resulting in dismissal of the suit.

The Court below has considered the evidence adduced on behalf of the parties in Miscellaneous case No. 10 of 2009 and after considering and analyzing the evidence available on the record, passed the impugned order. I do not find any illegality or irregularity in the impugned order, and therefore, in my view, there is no ground before this Court to interfere with the impugned order dated 20.08.2014. No doubt the original Title Suit No. 255 of 1992 was



filed in the year 1992 and the same was restored in the year 2014 but admittedly the aforesaid Title Suit No. 255 of 1992 was not dismissed on merit, rather, the same was dismissed for default and therefore, if the aforesaid title suit is decided on the basis of merit, then there shall be no injustice to any of the parties.

Accordingly, this civil revision petition stands dismissed at the stage of admission itself.

However, the concerned court below is directed to expedite hearing of Title Suit No. 255 of 1992 and try to dispose of the same as early as possible.

(Hemant Kumar Srivastava, J)

S.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02 .05.2017
Transmission Date	

