

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No. 174 of 2014

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1. Ansarul Haque Son of Late Basir Mian Resident of village - Khalispur,
P.S. Siwan, Mufassil, P.O. Jiain, District - Siwan

.... Petitioner

Versus

1. Sk. Sunila @ Sheikh Sunayla Son of Md. Kamil Resident of village -
Khalispur, Pergana Bara, P.S. Siwan Muffasil, District - Siwan

2. Isnarul Haque

3. Anwarul Haque

4. Zainul Haque Respondent No. 2 to 4 is sons of Late Basir Mian

5. Bibi Zulekha Khatoon

6. Bibi Sogra Khatoon

7. Bibi Safia Begum

Respondent No. 5 to 7 is daughter of Late Basir Mian

8. Md. Anis Son of Late Md. Sharif

9. Md. Issa Son of Late Md. Sharif

All the above opposite parties are resident of village-Khalispur, Pergana
Bara, P.O. Jiain, P.S. Siwan Mufassil, District Siwan

10. Nirhu Mian

11. Motiya Khatoon

12. Aisha Khatoon

13. Makhwal Khatoon Respondent No. 10 to 13 is son and daughter of
Late Zahid Hussain Resident of village - Tarwan, P.S. Siwan Mufassil,
District - Siwan

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

3 05-05-2017 Heard learned counsel for the petitioner as well as
learned counsel appearing for the opposite parties.

The present petition under Section 115 of the C.P.C.
has been filed for setting aside the order dated 10.10.2014 passed
by the Ad hoc Additional District and Sessions Judge-III, Siwan in
Misc. Case No. 01 of 2013 by which and whereunder he set aside



the ex parte judgment and decree dated 09.09.2004 and 25.09.2004 respectively restoring the Title Appeal No. 140 of 1979 on its original number.

The grievance of the petitioner is that before passing the impugned order in Misc. Case No. 01 of 2013, no notice was given to him though a paper publication was made but petitioner was residing outside at the relevant time and, therefore, he could not know about the paper publication.

Admittedly, Title Appeal No. 140 of 1979 was heard ex parte and the aforesaid title appeal was disposed of by judgment dated 09.09.2004 ex parte and the aforesaid judgment was set aside by the court below passing impugned order in Misc. Case No. 01 of 2013. It would appear from perusal of impugned order that notices were issued to petitioner in Misc. Case No. 01 of 2013 but they failed to appear and thereafter, paper publication was made and then the aforesaid Misc. Case No. 01 of 2013 was fixed for ex parte hearing. Therefore, I do not find any illegality in the impugned order dated 10.10.2014.

Accordingly, this revision petition stands dismissed on admission stage itself. However, learned Ad hoc Additional District and Sessions Judge-III, Siwan/ concerned court is directed to dispose of Title Appeal No. 140 of 1979 on merit within three



months from the date of receipt/production of copy of this order.
However, both parties must appear before the concerned court in
above stated Title Appeal No. 140 of 1979 within four weeks from
today.

(Hemant Kumar Srivastava, J)

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