

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.40 of 2009

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1. Shamjul Zoha, son of Late Abdul Hamid, resident of Village-Ramapali, P.O.-Chakkaa, P.S. and District-Siwan
2. Saira Khatoon, wife of Md. Asadullah, daughter of Late Abdul Hamid, resident of Village-Zaidpura, Post-Khukhunda, P.S.-Noonkhar, District-Deoria(U.P.)
3. Soghra Khatoon, wife of Late Azizullah, daughter of Late Abdul Hamid, Village-Mahamdabad, Post-Ranipur, District-Siwan
4. Tahera Khatoon, wife of Tamhid Hassan, daughter of Late Abdul Hamid, Village-Chandpali, P.O.-K.P. Miarauli, District-Siwan
5. Zohra Khatoon, wife of Mustafa Hassan, daughter of Late Abdul Hamid, Village-Chandpali, P.O.-K.P. Misrawli, District-Siwan
6. Hajra Khatoon, wife of Late Md. Mohsin, daughter of Late Abdul Hamid At & P.O.-Mehrauna, District-Deoria(U.P.)
7. Rabia Khatoon, wife of Md. Umar, daughter of Late Abdul Hamid, Village-Pratappur, P.O. & Dist-Siwan
- X/1. Maqsood Alam, son of Late Abdul Majeed
- X/2. Manzoor Alam, son of Late Abdul Majeed
- X/3. Nusrat Eqbal, son of Late Maimun Nesha
- X/4. Rahmat Eqbal, son of Late Maimun Nesha
- X/5. Laddan Eqbal son of Late Maimun Nesha
- X/6. Kallan Eqbal son of Late Maimun Nesha
- X/7. Shabban Eqbal son of Late Maimun Nesha
- X/8. Itrat Eqbal son of Late Maimun Nesha
- X/9. Munni Jahan, daughter of Late Maimun Nesha
X/3 to X/9 * Grand Sons and Grand Daughter of Late Majeed, X/1 to X9
resident of Village-Ramapali, P.O.-Chakara, P.S. & Dist-Siwan
- X/10. Gufran Ahmad, son of Late Waisun Nesha
- X/11. Nabi Ahmad, son of Late Waisun Nesha
- X/12. Jimboo Ahmad, son of Late Waisun Nesha
Grand Sons and Grand Daughters of Late Abdul Majeed, residents of
Village- Mahamdabad, P.O.-Ranipur, District-Siwan
- X/13. Asghari Khatoon, wife of Shamshad Ali, daughter of Late Abdul Majeed, Village-Champ, P.O.-Chauly, District-Siwan
- X/14. Anwari Begum, wife of Salauddin Ahman, Daughter of Late Abdul Majeed,
Village-Balaban, P.O.-Bishunpura, District-Gopalganj
- Y/1. Khodaija Khatoon, wife of Late Md. Zahid, daughter of Late Md. Islam, resident of Village & Post-Mehrauma, District-Deoria
- Y/2. Kalma Khatoon, wife of Md. Shaharyar, daughter of Md. Islam, resident of Village-Bedwalia, Post-Banthu, District-Siwan
- Y/3. Rajzia Khatoon, wife of Md. Isra, daughter of Late Md. Islam, Village & Post-Line Bazar, District-Gopalganj
- Y/4. Farooque Azam, son of Late Md. Islam, Village-Ramapali, Post-Chakra, District-Siwan
- Y/5. Quamre Azam, son of Late Md. Islam, Village-Rampali, Post-Chakra, District-Siwan
- Y/6. Shahana Khatoon, wife of Md. Ishteyaque, daughter of Late Md. Islam, Village & Post-Line Bazar, District-Gopalganj
- Y/7. Qualila Khatoon, wife of Munna Mian, daughter of Late Md. Islam, Village-



- Ramapali, Post-Chakra, District-Siwan
- Y/8 Shaida Khatoon, wife of Late Md. Wakil, daughter of Late Md. Islam, Village-Mohammadpur, Post-Poahrukhi, District-Siwan
- Y/9 Abdul Quadir, son of Late Md. Islam, Village-Ramapali, Post-Chakra, District- Siwan
- Z/1 Nabiun Nesha, wife of Md. Hasibullah, daughter of Md. Younus, resident of Village-Bedwalia, P.O.-Santhu, District-Siwan
- Z/2. Md. Irfan, son of Md. Younus, village-Farhi Rampur, Post-Belauli, District-Gopalganj
- Z/3. Shamsun Nesha, daughter of Md. Younus, Village-Farhi Rampur, Post-Belauli, District-Gopalganj
- Z/4. Shahana Khatoon, daughter of Md. Zahid and Aisha Khatoon, Village-Bedwalia, Post-Santhu, District-Siwan
- Z/5. Saddam Hussain, son of Md. Zahid and Aisa Khatoon, Village-Bedwalia, Post-Santhu, District-Siwan
- Z/6. Shamsuddin Siddique, son of Late Md. Idris, Village and Post-Mahrauna, District-Deoria
- Z/7. Gulam Rabbani, son of Late Idria, Village and Post-Mehrauna, District-Deorea
- Z/8. Salahuddin Siddique, son of Late Md. Idris, village and Post-Mehrauna, District-Deorea
- Z/9. Najmun Nesha, wife of Md. Ahsan, daughter of Late Md. Idris, Village and Post-Mehrauna, District-Deorea
- Z/10. Ajbun Nesha, daughter of Late Md. Idris, Village and Post-Mehrauna, District-Deorea
- Z/11 Lailun Nesha, daughter of Late Md. Idris, Village and Post-Mehrauna, District-Deorea
- Z/12. Md. Younus, husband of Late Bibi Mokimun Nesha, resident of Village-Kharati Rampur, P.S.-Madhuban, P.O.-Rampura, District-Azamgarh(U.P.)
- H/1. Najmun Nesha, daughter of Md. Ishaque and Late Bibi Habiban
- H/2. Jannatum Nesha, daughter of Sk. Md. Ishaque and Late Bibi Habiban
- H/3. Bahisthum Nesha, daughter of Sk. Md. Ishaque and Late Bibi Habiban
- H/4. Noor Jannat daughter of Sk. Md. Ishaque and late Bibi Habiban
- H/5. Noor Bashar, daughter of Sk. Md. Ishaque and Late Bibi Habiban
- H/6. Shamiun Nesha, daughter of Sk. Md. Ishaque and Late Bibi Habiban
- H/7. Sk. Salauddin, son of Sk. Md. Ishaque and Late Bibi Habiban
- All H/1 to H/7 are resident of Village-Balahan, Post-Bishunpura, P.S.-Barauli, District-Gopalganj.

.... Petitioner/s

Versus

1. Paramjota Devi, wife of Late Bishwanath Prasad
 2. Avinash Chandra Srivastava
 3. Kamlesh Chandra Srivastava
 4. Prakash Chandra Srivastava
- Nos. 2, 3 and 4 are sons of Late Bishwanath Prasad
5. Anant Prasad
 6. Bipin Bihari Verma
 7. Janardan Prasad
 8. Bindeshwari Prasad
- Nos. 5, 6, 7 and 8 are sons of Late Dr. Diwakar Sharma
9. Meera Srivastava
 10. Veena Verma



Nos. 9 and 10 are daughters of Late Dr. Diwakar Sharma.
All residents of Village-Nawapali, P.O.-Chapra, P.S.-Siwan Mofassil,
District-Siwan, at present residing at Mohallah-Shastri Nagar, P.O., P.S. and
District-Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Najmul Bari, Advocate
For the Respondent/s : Mr. Manzoor Alam
Mr. Uma Shankar Prasad
Mr. Deepak Kumar Sinha
Mr. K.K.Tiwary

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date: 25-08-2017

Seeking recall and setting aside of an ex-parte judgment dated 08.07.2008 passed by this Court in Second Appeal No. 332 of 1989, this application has been filed in the form of a miscellaneous jurisdiction case, whereas, in fact, it is an application for review/recall of the order only on account of the fact that respondents were not present when the appeal was taken up for hearing.

Except for contending that the matter has been decided ex-parte without hearing the respondents, nothing has been indicated which goes to show that the ingredients necessary for setting aside the ex-parte order as contemplated under Order 41, Rule 21 is made out in the application. As far as review is concerned, the judgment is in detail and therefore, in view of the recent judgment of the Hon'ble Supreme Court in the case of *Sasi(Dead) through Legal*



Representative versus Arvindakshan and Others reported in (2017) 4 SCC 692, no case for review is made out.

Accordingly, finding no ground, this application stands disposed of.

(Rajendra Menon, CJ)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31/08/2017
Transmission Date	NA

