

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.243 of 2010

In
LPA 103 of 1992

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1. Vinay Kumar,
 2. Bans Narain Sah,
 3. Tej Pratap Sah, All sons of Ramji Sah, All residents of Village- Divian, P.S.- Kargahar, P.O.- Divian, Pargana- Sasaram, District- Rohtas.

.... Petitioner/s

Versus

1. Ramayan Sah,
2. Narayan Sah,
3. Shyam Narain Sah,
4. Hridaya Narain Sah, All sons of Late Ghamandi Sah,
5. Girja Devi,
6. Urmila Devi, Both daughters of Late Ghamandi Sah,
7. Sanjay Kumar Sah,
8. Amit Anand, Both sons of Late Vidyasagar Sah,
9. Pranpati Devi,
10. Reena Devi,
11. Neelam Devi,
12. Sandhya Devi,
13. Kanchan Devi, All daughters of Late Vidyasagar Sah,
14. Prabhavati Devi, W/o Subash Chandra Prasad, Village- Kota, P.S.- Dihita, District- Bhabhua (Kaimur), D/o Late Ramji Sah.
15. Dharmavati Devi, W/o Sohanlal Gupta, Village- Jonpur, P.S.- Jaunpur, P.S.- Rajpur, District- Buxar, D/o Late Ramji Sah.
16. Umrawati Devi, W/o Raja Ram Sah, Village- Rajpur, P.S.- Rajpur, District- Buxar, D/o Ramji Sah.
17. Balkeshwar Singh,
18. Shyam Narain Singh,
19. Ram Niwas Singh, All sons of Late Halkhori Singh (Halkhori Singh, S/o Late Bhrigun Singh Kushwaha),
20. Ram Parvesh Singh,
21. Umeshwar Singh, Both sons of Late Ram Kripal Singh,
22. Ram Dev Singh, S/o Late Bhrigun Singh Kushwaha,
23. Ramakant Singh,
24. Anil Kumar Singh, Both sons of Late Ram Dev Singh,
25. Baban Sah, S/o Late Paudharia Devi,
26. Kamla Devi, D/o Late Paudharia Devi,
27. Nirmala Devi, Resident of Mohalla- Jamania Station Bazar, P.S.- Jamania, District- Gajipur.
28. Anil Kumar Gupta,
29. Sunil Kumar Gupta, Both sons of Late Sanmukhiya Devi, Resident of Mohalla- Jamania Station Bazar, P.S.- Jamania, District- Gajipur (Uttar Pradesh).

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Appearance :

For the Petitioner/s : Ms. Vagisa Pragya Vacaknavi, Advocate
For the Respondent/s : Mr.



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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER
(Per: HONOURABLE THE CHIEF JUSTICE)

18 31-08-2017 This application has been filed for review/recall of an order dated 4.9.2009 passed in LPA No. 103 of 1992.

The matter is pending since 2010 and it has been kept pending for effecting service on the respondents. The contesting respondents are represented by their counsel. The remaining respondents, as per the office note, are seen to have been served except respondent No. 29, who has not responded to the notice issued and we find that he is already aware of the matter as his family member Respondent No. 28, his brother, has accepted the notice and aware of the proceedings.

In view of the above and taking note of the fact that the matter is pending for more than seven years, we proceed to decide the application on merit.

LPA No. 103 of 1992 was listed for hearing which was dismissed on account of peremptory order 5.1.2006 whereby fresh service of notice by registered cover was directed to the legal heirs of Respondent No. 12, namely, Respondent No. 12(1) and the deceased Respondent No. 14. As far as Respondent No. 14 is concerned, it has come on record that he died issueless leaving



behind no legal heir and therefore after his death the effect would be non-consequential. As far as Respondent No. 12 is concerned, she was supporting the appellants who were plaintiffs in the suit in question which was a partition suit and therefore no adverse effect would be caused by non-receipt of notice. That apart most vital aspect of the matter is that the counsel for the appellants, who was representing them, was later on elevated to Bench and the appellants were not noticed and the case was heard behind the back of the appellants and order was passed.

Taking notes of all the circumstances, the interest of justice requires that appeal should be restored and heard on merits. Accordingly, we allow this application recall the order dated 4.9.2009. Restore LPA No. 103/1992 to its original file and direct it to be listed for admission before the appropriate Bench on 14th September, 2017.

With the aforesaid the review application stands allowed and disposed of.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

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