

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.10 of 2014

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1. Md. Yasir Naseem,
 2. Faisal Naseem
 3. Md. Kashif Naseem All sons of Late Sabiha Naseem & Late Naseem Akhtar All resident of Mohallah- Sultanganj Naugharwa, P.S.- Sultanganj, District- Patna.
 4. Huma Naseem Hussain daughter of Late Sabiha Naseem & Wife of Md. Ali Hussain, resident of ETIA-E-ABBAS, Narkatghat, Painthantoli, Alamganj Patna- 800007.

.... Petitioner/s

Versus

1. Nuzhat Naz, wife of Late Ashraf Imam, resident of Mohalla- Line Bazar Chowk, Purnea, P.S.- Khazanchi Haat, P.O.- Purnea, District- Purnea.
2. Najma Ismailee, wife of Late Md. Mustafa Mallick, D/o Late Maulvi Abdul Mannan (now dead) and in her place her two daughters namely
3. Mrs. Sabina Mustafa wife of Sarful Haque
4. Miss Rubina Mustafa Both daughters of Late Mustafa Mallick, residing at City Centre Complex Bari Road, Patna
5. The Bihar State Sunni Waqf Baord through its Chief Executive Officer, 34, Haj Bhawan, Second Dloor, Hardinge Road, (Ali Imam Path) Patna.
6. Akhtar Imam Ismailee, Son of Late Abdul Mannan Ismailee, resident of Mohalla- Line Bazar Chowk, Purnea, P.S.- Khazanchi Haat, P.O.- Purnea, District- Purnea.
7. Dr. (Mrs) Akhtar Jahan Mallick, wife of Dr. Azhar Imam Ismailee, resident of Mohalla- Line Bazar Chowk, Purnea, P.S.- Khazanchi Haat, P.O.- Purnea, District- Purnea. at presently residing at Post Box No 3489 Riqua Dubai (U.A.E.)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. MD. ANIS AKHTAR, ADV
For the Respondents : Mr. MOHAMMED ABU HAIDAR, ADV

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT



Date: 30-01-2017

Heard Mr. Md. Anis Akhtar, learned counsel appearing on behalf of the petitioners and Mr. Waliur Rahman, learned counsel appearing for Opposite Party No. 1.

Learned counsel who has appeared on behalf of some of the persons who has filed intervenor applications has failed to persuade this Court to take a view that the prayer made in the intervenor application are fit to be allowed.

The intervenor applications are accordingly, dismissed.

The present revision application has been filed against the impugned order by which the appellate court below has restored the miscellaneous appeal to its original file.

Learned counsel appearing for the petitioners has submitted that the learned court below has not properly considered the facts and circumstances where some of the respondents were already dead and no steps for substitution was taken and the appeal had abated to that extent. It has also been contended that the appellants in the courts below were only interested in harassing and lingering the matter and never intended for disposal of the appeal on merits.

Learned counsel appearing for the Opposite Party No. 1 has pointed out that the steps have been taken for substitution with



regard to the deceased respondents.

After considering the submissions and perusal of the impugned order, it is manifest that the present revision application has been filed against the order whereby the appellate court below has allowed the prayer of the appellants in Miscellaneous Case No. 1 of 2011 for restoring the appeal to its original file as prayed. The finding of fact has been recorded on the basis of scrutiny of evidence by the court below pertaining to non-appearance of the appellants on earlier dates and accepting the explanation in that regard as furnished by the appellants. This Court does not find that any error of jurisdiction or material irregularity has been committed by the court below in passing the impugned order.

The revision application is, accordingly, dismissed.

However, it is observed that this court has not gone on the merits of the plea regarding abatement or otherwise of the appeal in the court below and the petitioners or the other party in appeal shall be at liberty to raise appropriate objection in accordance with law in that regard.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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