

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.135 of 2014

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1. Shyamdeo Singh son of Brahamdeo Singh @ Brahamdeo Narayan Singh
 2. Ashok Kumar Singh
 3. Ranjan Kumar
 4. Manoj Kumar Singh all petitioner nos. 2 to 4 are sons of Syamdeo Singh and all are resident of village- Sheo Nagar police Station- Tekari, District- Gaya
 5. Nira Devi wife of Sri Ajay Singh and daughter of Sri Syamdeo Singh resident of Mohalla- Nababganj, Police Station- Hazaribagh(Jharkhand)
 6. Indu Devi wife of Late Arun Singh and daughter of Sri Syamdeo Singh resident of Mohalla- Sasta Khadi Bhandar Police Station- Sasaram, District- Sasaram

.... Petitioner/s

Versus

1. Binod Kumar Singh
2. Arvind Kumar Singh
3. Bhupendra Kumar Singh all respondent nos. 1 to 3 are sons of Late Kesho Prasad Singh
4. Surajdeo Singh
5. Nagendra Singh both respondent no. 4 and 5 are sons of Brahamdeo Singh@ Brahamdeo Narayan Singh all respondent nos. 1 to 5 are resident of village- Sheo Nagar, Police Station- Tekari, District- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailesh Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL JUDGMENT

Date: 07-04-2017

Heard learned counsel for the petitioners and perused the record of the case.

2. In my view, this Revision Petition can be disposed of on Admission Stage itself even without issuance of notice to the opposite parties.

3. Petitioners have challenged the order dated 24.05.2014



passed by the Sub-Judge-II, Gaya, in Miscellaneous Case No.09 of 2005 by which and whereunder he restored the Partition Suit No. 25/04/161/98 filed on behalf of the opposite parties to its original file and number.

4. The opposite parties field the partition suit against the petitioners which was numbered as Partition Suit No.161 of 1998. The aforesaid partition suit was pending in the court of the Sub-Judge-I, Gaya, but due to administrative order of the District Judge, Gaya, the aforesaid partition suit was transferred to the court of the Sub-Judge-II, Gaya and after transfer of the aforesaid partition suit, no pairvi was made on behalf of the opposite parties/plaintiffs, as a result whereof the aforesaid partition suit was dismissed for default on 23.11.2004. Thereafter, the opposite parties/ plaintiffs filed Miscellaneous Case No.09 of 2005 on 09.08.2005. The concerned court took the evidence of both the parties in the aforesaid Miscellaneous Case and, subsequently, allowed the aforesaid Miscellaneous Case, setting aside the aforesaid dismissal order passed in Partition Suit No. 161 of 1998 and restored the aforesaid partition suit to its original file and number.

5. Learned counsel for the petitioners submits that the aforesaid Miscellaneous Case was hopelessly time barred and no sufficient cause to condone the delay was given in the aforesaid Miscellaneous case but, even then, the learned court below did not



consider the aforesaid fact and passed the impugned order which is not in accordance with law. He further submits that at Para-7 of the aforesaid Miscellaneous Case, it has specifically been pleaded by the opposite parties that they got knowledge about the dismissal of the aforesaid partition suit from Halka Karamchari on 11.06.2005 but, even then, they did not file Miscellaneous case within the period of limitation but I am not at all convinced with the aforesaid submissions of the learned counsel for the petitioners because the opposite parties specifically pleaded in Miscellaneous Case No.09 of 2005 that when they got information from Halka Karamchari about dismissal of the aforesaid partition suit, they approached their counsel as well as advocate clerk, who after hectic search got collected the information that the aforesaid partition suit has already been dismissed in default and, thereafter, the opposite parties immediately filed the aforesaid Miscellaneous case without making any delay. Moreover, there is nothing on the record to show that when the Partition Suit No.161 of 1998 was transferred from the court of Sub-Judge-I, Gaya, to the court of Sub-Judge-II, Gaya, any information regarding the transfer of the aforesaid partition suit was given to the opposite parties/ plaintiffs and, therefore, in my view, there is no ground to interfere into the impugned order and, accordingly, this Revision petition stands dismissed on Admission stage itself and the impugned order dated



24.05.2014 passed in Misc. Case No.09 of 2005 by the court of the
Sub Judge-II, Gaya, stands confirmed.

(Hemant Kumar Srivastava, J)

N.K/-

AFR/NAFR	NAFR
CAV DATE	NAFR
Uploading Date	24.04.2017
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