

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.921 of 2016

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1. Md. Sabih
2. Naquib Alam, Sons of Md. Fasih
3. Afrin Anjum, daughter of Late Md. Fasih
4. Najma Begum, Wife of Late Md. Fasih All residents of Mohalla - P.S. &
District Aurangabad Petitioners

Versus

1. Jahan Ara Wife of Hadi Khalil and daughter of Late Samsul Haque
resident of Mohalla - Nawadih Chauk, at P.S. and District Aurangabad
2. Husne Ara Wife of Md. Wasi
3. Rukhsana Wife of Md. Samim Ahmad
4. Ishrat Ara @ Munni Wife of Md. Akhtar all daughters of Late Shamsul
Haque residents of Mohalla - Nawadih Teli Gali, at P.S. and District
Aurangabad
5. Gulshan Ara Wife of Wasi Ahmad and daughter of Late Shamsul Haque
resident of Mohalla - Nawadih near Urdu Prathmik Vidyalaya, at P.S. and
District Aurangabad
6. Gulash Ara Widow of Late Anwarul Haque
7. Md. Khalid Annsar
8. Md. Tarique Anwar both sons of Late Anwarul Haque
9. Farhat Ara
10. Rafat Ara
11. Nikhat Ara
12. Mussarat Ara
13. Zeenat Ara All residents of 10/1, Marquis Street, Kolkata 700016
.... Respondents

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Appearance :

For the Petitioners : M/S Alok Kumar Singh, Sr. Adv. with Mr.
Bhola Kumar, Adv.

For the Respondents : Mr. Sailesh Kumar, Adv.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**

ORAL ORDER

4 05-12-2017

Heard both sides.

The petitioners have filed this civil miscellaneous petition against the order, dated 23.06.2006, passed in Title Suit No. 202 of 1991/55 of 2006 by Sub Judge, III, Aurangabad, whereby the learned Sub Judge rejected the petition of the petitioners for calling original records of Jamabandi Return submitted in Compensation Case No. 17697 of 1954-55.

Mr. Alok Kumar Sinha, learned senior counsel,



appearing for the petitioners, submits that the document is very much essential for the just decision of the case. The certified copy of the return is on record before the Court. The plaintiffs filed the petition for calling the original Jamabandi Return submitted in Compensation Case No. 17697 of 1954-55, but, the same was illegally rejected and a direction was given to the plaintiffs to get it exhibited in accordance with law. The same can not be exhibited in absence of the original Jamabandi Return.

On the other hand, the learned counsel for the respondents submits that the petitioners filed the petition at a very belated stage. The record should have been filed before framing of the issues, but, the plaintiffs have not stated any facts with regard to Jamabandi Return.

Having considered the submissions of the parties, I find that the learned Sub Judge has committed illegality and jurisdictional error by rejecting the petition of the plaintiff as without original document of Jamabandi Return, its copy can not be exhibited and the same is most essential for the just decision of the case.

Accordingly, the order, dated 23.06.2016, is set aside and the civil miscellaneous petition is allowed.

The learned Sub Judge is directed to proceed further in accordance with law.

(Prabhat Kumar Jha, J)

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