

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3854 of 2013

In
Civil Writ Jurisdiction Case No.7368 of 2011

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1. NARAYAN MAHADAR Son of Late Asharfi Mahaldar
 2. Rani Kumari
 3. Sajani Kumari
 4. Kranti Devi
 5. Reena Devi
 6. Dukhani Kumari
 7. Sheela Kumari
 8. Muni Devi No. 2 to 8 Daughters of Late Paltu Mahaldar
 9. Lethu Mahaldar Son of Late Paltu Mahaldar
 10. Most. Putli Devi Wife of Late Paltu Mahaldar
 11. Sakunia Devi Wife of Late Radha Mahaldar
 12. Subol Mahaldar
 13. Praveen Mahaldar No. 12 to 13 Sons of Late Radha Mahaldar
 14. Kosilya Devi
 15. Sushila Devi No. 14 to 15 both daughters of Late Radha Mahaldar
 16. Upendra Mahaldar Son of Late Fucho Mahaldar
 17. Most. Sonia Wife of Late Narayan Mahaldar
 18. Nand Lal Mahaldar Son of Kishundeo Mahaldar
 19. Sukhdeo Mahaldar Son of Late Bohram Mahaldar
 20. Rohit Mahaldar Son of Sukhdeo Mahaldar
 21. Laxman Mahaldar Son of Biju Mahaldar
 22. Nand Lal
 23. Nageshwar Mahaldar
 24. Dineshwar Mahaldar
 25. Kameshwar Mahaldar
 26. Fuleshwar Mahaldar
 27. Bindeshwar Mahaldar No. 22 to 27 Sons of Late Kishundeo Mahaldar
 28. Sanjha Devi
 29. Sarda Devi
 30. Ashwa Devi No. 28 to 30 daughters of Late Kishundeo Mahaldar All are residents of Village - Sarsi Tola, Police Station - Sarsi, District - Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar through Collector, Purnea
2. The Collector, Purnea.
3. Master Jais Chand Lal Choudhary Son of Kumar Jaswant Chand Lal Choudhary Resident of Mohalla - Purnia City, Police Station - Sadar, District - Purnea.
4. Surya Narayan Yadav
5. Tej Narayan Yadav
6. Nand Kishore Yadav
7. Kamal Kishore Yadav



8. Kaushal Kishore Yadav No. 4 to 8 sons of Late Bhola Lal Yadav
9. Gita Devi Wife of Late Siya ;Sharan Yadav
10. Satyam Kumar Son of Late Siya Sharan Yadav No. 3 to 10 residents of Village and P.O. - Sarsi, Police Station - Sarsi, District - Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Arun Prasad Ambastha, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

4 19-09-2017 This application has been filed for restoration

C.W.J.C. No.7368 of 2011 which was dismissed for non-compliance of the peremptory order dated 4.1.2013.

Keeping in view the reasons indicated in the application and finding them to be *bona fide*, the same is allowed. C.W.J.C. No.7368 of 2011 is restored to its original file.

C.W.J.C. No.7368 of 2011

This is a petition filed in the year 2011 challenging an order allowing an interlocutory application under Order 1 Rule 10(2) C.P.C. Considering the short question involved in the matter for which this application under Article 226 of the Constitution is pending for more than six years, the matter is taken up for hearing.

The Additional District & Sessions Judge, F.T.C. No.4, Purnea, in Misc. Case No.1/09, allowed an application filed by the plaintiff therein under Order 1 Rule



10(2) C.P.C. whereby finding that for deciding the suit in question pertaining to Khata No.740, RS Plot No.2338 as detailed in the order, the respondents 4 to 10 are necessary parties and at the stage of appeal treating them to be necessary parties for disposal of the appeal, the learned Court has allowed the application.

The order passed by the learned Court in allowing the application under Order 1 Rule 10(2) C.P.C., in my considered view, cannot be said to be erroneous, illegal or patently unsustainable to such an extent that at this interlocutory stage, in a proceeding under Article 226 of the Constitution, the interference by this Court is called for.

Accordingly, the petition stands dismissed.

(Rajendra Menon, CJ)

K.C.Jha/-

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