

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.5 of 2015

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Satyadeo Ramson of Late Kachur Ram resident of Ambedkar Nagar, Chamar Toli, Siwan, P.S- Siwan Town, District- Siwan, at present BSL Jhopari Colony, C/O Heera Lal Ration Shop, P.S- Maraphari, dist- Bokaro(Jharkhand)

.... Petitioner/s

Versus

1. Manoj Ram
2. Guddu Ram, both sons of late Suraj Ram, Both resident of Ambedkar nagar, Siwan P.S- Siwan Town, Dist- Siwan
3. Shankar Ram
4. Arjun Ram , both sons of Kachur, resident of Ambedkar Nagar, Chamar Toli, Siwan, P.S- Siwan Town, Dist- Siwan
5. Smt. Kalawati Devi, Daughter of Late Kachur Ram w/o Srinath Ram @ Shivnath Ram, resident of Ambedkar Nagar, Chamar Toli, Siwan,P.S Siwan Town, Dist- Siwan.
6. Smt. Sita Devi D/O Late Kachur Ram, Ambedkar Nagar, Chamar Toli, Siwan, P.S, Siwan town, Dist- Siwan
- 7 Kumari Kanchan, d/o Late Kachur Ram, Ambedkar nagar, Chamar Toli, Siwan, P.S- Siwan Town, Dist- Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Pandey
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

11 27-07-2017 Learned counsel for the petitioner as well as learned counsel for the opposite parties.

2. Petitioner has challenged the order dated 19.03.2012 passed by the learned District Judge Judge, Siwan in Miscellaneous Appeal No. 25 of 2011 by which and whereunder he dismissed the aforesaid Miscellaneous Appeal which had been filed by the petitioner against the order dated 28.11.2011 passed by the Munsif 1st, Siwan in Miscellaneous Case No.21 of 2011.



3. It would appear from perusal of the record that Title Partition suit no. 323 of 1986 was filed and the aforesaid suit was decreed in the year 1996 and, thereafter, Title Appeal No. 51 of 1996 was filed which was allowed modifying the preliminary decree passed in Title Partition suit no. 323 of 1986 and, thereafter, Second Appeal no. 100 of 2003 was filed before this Court which is still pending. However, in the meantime, the court below proceeded and passed final decree on 08.11.2008, against which the petitioner filed petition under Order IX Rule 13 of the Civil Procedure Code claiming that before passing final decree, no notice was served upon him. The learned Munsif rejected the aforesaid petition passing the impugned order dated 28.11.2011 which was challenged by the petitioner in Miscellaneous Appeal No. 25 of 2011 which was, too, dismissed by the learned District Judge, Siwan holding that the petitioner had full Knowledge about preparation of final decree in Title Partition Suit no. 323 of 1986 as prior to preparation of final decree, the petitioner had filed a petition for stay of preparation of final decree on the ground of pendency of Second Appeal No. 100 of 2003.

4. Learned counsel appearing for the petitioner submits that before passing final decree, no notice was served upon the petitioner but learned Munsif as well as learned District Judge,



Siwan rejected the petition as well as Miscellaneous Appeal respectively on imaginary ground that petitioner had knowledge of preparation of final decree but I am not at all convinced with the aforesaid submissions, because the impugned order goes to show that the learned District Judge, Siwan had perused the lower court record and found that petition was filed by the petitioner before the court of Munsif for stay of preparation of final decree. Moreover, there appears to be no provision for giving fresh notice to the parties at the time of preparation of final decree.

5. Therefore, considering the aforesaid facts as well as submissions of the parties, I am of the opinion that this revision petition is devoid of merit and accordingly, this revision petition stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

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