

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.945 of 2016

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1. Radha Krishna Dubey, son of Late Baliram Dubey
2. Tara Devi, wife of Radha Krishna Dubey Both resident of village- Amra Tola Babhan Bigha, P.O.- Rampur Waina, P.S.- Parasi, District- Arwal.
3. Kabita Devi, wife of Niraj Pandey, D/o Radha Krishna Dubey, resident of village- Bhagwanpur, at present Mauja Amra Tola Babhan Bigha, P.O.- Rampur Waina, P.S.- Parasi, District- Arwal Petitioners

Versus

1. Chandani Devi, wife of Narayan Mishra, D/o Radha Krishna Dubey
2. Sandhya Devi, wife of Om Narayan Mishra, D/o Radha Krishna Dubey Both resident of village- Pinjroi, P.O.- Ramasrah, P.S.- Samdesh, District- Ara (Bhojpur) at present village- Babhan Bigha, P.O.- Rampur Waina, P.S.- Parasi, District- Arwal Respondents

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Appearance :

For the Petitioners : Mr. Yogendra Kumar Dwivedi, Adv.
For the Respondents :

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

4 05-12-2017

Heard the learned counsel for the petitioners.

No body appears on behalf of respondents.

The petitioners have filed this civil miscellaneous petition against the order, dated 20.07.2016, passed by Sub Judge, I, Arwal, in Title Suit No. 74 of 2015 by which the learned Sub Judge rejected the petition of the petitioners for recalling the order fixing the suit for ex parte hearing.

The learned counsel for the petitioners submits that the petitioners did not receive any notice. The notice was not validly served on the petitioners, but, the suit was fixed for ex parte hearing and the defendants-petitioners was restrained from filing written statement. It is, further, submitted that there is nothing on record to show that the defendants-petitioners have any knowledge about the pendency of the suit.

Taking into consideration the facts, aforesaid, I find that the learned Sub Judge has committed jurisdictional error in



rejecting the petition of the petitioners for recalling the order fixing the ex parte hearing of the suit and for debarring the petitioners-defendants from filing written statement.

Accordingly, the order, dated 20.07.2016, is set aside. The petitioners are allowed to file written statement, thereafter, learned Sub Judge shall proceed further in accordance with law.

(Prabhat Kumar Jha, J)

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