

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.2060 of 2017

1. Smt. Janti Devi, Wife of Sri Vijay Prasad Daughter of Late Ram Chandra Mahto, Resident of Village- Kohra, P.S.- Makhdumpur, District- Jehanabad.
2. Smt. Sabita Devi, Wife of Sri Ramashray Prasad, Daughter of Late Ram Chandra Mahto, Resident of Village- Paibigha, P.S. Belaganj, District- Gaya.
3. Smt. Geeta Devi, Wife of Sri Surendra Prasad, Daughter of Late Chandra Mahto, Resident of Village- Nandanpura, P.S.- Makhdumpur, District- Jehanabad.
4. Sanjay Kumar @ Sanjay Mahto, Son of Late Ramchandra Mahto, resident of Village- Siripur, P.S.- Ghosi, District- Jahanabad.

... .. Petitioners

Versus

1. Ramashish Singh, Son of Late Ramautar Singh.
2. Dhananjay Singh, Son of Late Ramautar Singh.
3. Tarun Kumar, Son of Late Ramautar Singh.
4. Bijendra Singh, Son of Late Ramautar Singh. All resident of Village- Modanganj, P.S.- Ghosi, District- Jehanabad.
5. Braj Kishore Prasad, Son of Late Jagu Mahto, resident of Village- Saren, P.S.- Makhdumpur, District- Jehanabad.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Sunil Srivastava
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 11-09-2018

Heard the learned counsel for the petitioners.

2. The petitioners filed this civil miscellaneous petition against the order dated 08.09.2017, passed in Misc. Case No.04 of 2006 by which the Sub-Judge-I, Jehanabad set aside the ex-parte judgment and decree passed in Partition Suit No.169 of 2002/105 of 2005 and allowed the respondents to contest the suit.



3. The learned counsel for the petitioners submits that the suit was decided ex-parte and preliminary decree was prepared. The Pleader Commissioner submitted his report and thereafter final decree was also prepared. The respondents have full knowledge about the pendency of the suit, therefore, the order of setting aside the ex-parte judgment and decree is erroneous but I find no force in the submission of the learned counsel for the petitioners. The learned Sub-Judge-I, Jehanabad has categorically held that no notice was served on the respondents and the respondent no.1 is an old and illiterate lady. In view of the fact, the learned Sub-Judge set aside the ex-parte judgment and decree passed in Partition Suit No.169 of 2005/105 of 2005.

4. I do not find any illegality in the order impugned. This civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.09.2018
Transmission Date	NA

