

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7471 of 2011

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1. Md.Mintullah Shamsul Haque, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 2. Md. Subhan Ahmad Ali, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 3. Md. Akbar Md. Wali, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 4. Ram Sumiran Mahto Late Mahabir Mahto, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 5. Ganga Ram Yadav Late Saryug Yadav, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 6. Sajjan Yadav Late Saryug Yadav, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 7. Md. Jalal Shamsul Haque, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 8. Sonelal Pandit Thaku Pandit, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 9. Md. Israil Late Md. Suleman, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 10. Phucho Yadav Late Subi Yadav, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 11. Md. Gaffar Md. Shafique, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 12. Md. Wali Late Roza Mian, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 13. Amna Khatoon W/O Abdul Shakur, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.
 14. Abdul Sattar Abdul Shakur, Village Sujanpur, Tola Goldan, P.S. Gadhpura, S.D. Bakhri, Dist. Begusarai.

.... Petitioner/s

Versus

1. Maheshwar Prasad Singh Late Ram Pratap Singh, Village & P.O. And P.S. Gadhpura, S.D. Manjhaul, At Present S.D. Bakhri, Dist. Begusarai.
2. Sachidanand Singh Late Rajendra Pd. Singh, Village & P.O. And P.S. Gadhpura, S.D. Manjhaul, At Present S.D. Bakhri, Dist. Begusarai.
3. Madan Mohan Prasad Singh Late Rajendra Pd. Singh, Village & P.O. And P.S. Gadhpura, S.D. Manjhaul, At Present S.D. Bakhri, Dist. Begusarai.
4. Lalita Kumar Singh Late Rajendra Pd. Singh, Village & P.O. And P.S. Gadhpura, S.D. Manjhaul, At Present S.D. Bakhri, Dist. Begusarai.
5. Chandrika Kumari W/O Late Rajendra Prasad Singh, Village & P.O. And P.S. Gadhpura, S.D. Manjhaul, At Present S.D. Bakhri, Dist. Begusarai.
6. Kanak Devi D/O Late Rajendra Prasad Singh, Village & P.O. And P.S. Gadhpura, S.D. Manjhaul, At Present S.D. Bakhri, Dist. Begusarai.
7. Smt. Annapurna Devi W/O Late Upendra Pd. Singh, Village & P.O. And P.S. Gadhpura, S.D. Manjhaul, At Present S.D. Bakhri, Dist. Begusarai.
8. Smt. Bimla Devi D/O Upendra Prasad Singh And Annapurna Devi, Village & P.O. And P.S. Gadhpura, S.D. Manjhaul, At Present S.D. Bakhri, Dist. Begusarai.
9. Siva Ram Das Chela Of Late Mahanth Bharath Das As Sebait Of Thakurjee As



- Installed In Rampur Asthal, P.S., P.O. And S.D. Bakhri, Dist. Begusarai.
10. Most. Shila Devi W/O Late Janardan Jha, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 11. Nand Kishore Jha Late Janardan Jha, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 12. Suresh Jha Late Janardan Jha, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 13. Ganesh Jha Late Janardan Jha, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 14. Umesh Jha Late Janardan Jha, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 15. Manoj Kr. Jha Late Janardan Jha, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 16. Vinod Kumar Jha Late Janardan Jha, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 17. Sulena Kumari D/O Late Janardan Jha, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 18. Vimal Devi W/O Bharat Bhushan Singh And D/O Late Janardan Jha, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 19. Rani Devi W/O Rajesh Kumar Singh And D/O Late Janardan Jha, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 20. Ram Shankar Roy Brahmdeo Roy, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 21. Ram Badan Roy Bishwanath Roy @ Biro Roy, Village And P.O. Sakarpura, P.S. Hasanpur, S.D. Rosera, Dist. Samastipur.
 22. The State Of Bihar through Collector, Begusarai
 23. D.C.L.R. Begusarai.
 24. Ram Kishun Singh Late Jagdish Singh, Village Amraur, P.S. Begusarai, Dist. Begusarai.
 25. Tamo Singh Late Jagdish Singh, Village Amraur, P.S. Begusarai, Dist. Begusarai.
 26. Narayan Singh Late Jagdish Singh, Village Amraur, P.S. Begusarai, Dist. Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Abhay Kumar Singh and
Siddharth Kr. Singh

For the Respondent/s : Mr. Ranjan Kumar Dubey, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 20-03-2018

An interlocutory application bearing No. 2030 of 2018
has been filed by the respondent-Maheshwar Prasad Singh for
recalling the order dated 09.02.2018 passed by this Court in C.W.J.C.



No. 7471 of 2011 whereby and whereunder this writ application was allowed.

2. Heard learned counsel for the petitioners as well as the respondents.

3. It appears that the petitioners initially filed a civil revision bearing No. 1102 of 2009 under section 115 of the Code of Civil Procedure for setting aside the order dated 20.05.2009 passed by Sub-Judge-IV, Begusarai in Title Suit No.119 of 1991 whereby and whereunder court below refused to condone the delay in filing review petition by the petitioner. The said revision was heard on admission in presence of respondent nos. 22 and 23 and all the opposite parties were noticed on 04.08.2009. It further appears that the petitioner and opposite party nos. 1 and 8 were heard on 21.01.2010 on interlocutory matter. The Civil Revision No. 1102 of 2009 was converted into writ application under Article 227 of the Constitution on 15.7.2010 and the order dated 5.8.1998 was stayed on 28.4.2011. The learned counsel for the petitioners mentioned this case on 07.02.2018 and the office was directed to list this case on 09.02.2018 under the heading for hearing at 12:30 P.M. before appropriate bench if otherwise ready. Accordingly this case was placed for hearing. The matter was heard on 09.02.2018 and the writ application was allowed.

4. The learned counsel for the petitioners submits that no



notice was issued against the petitioners for hearing. It has been submitted that the petitioner had filed Civil Revision No.1818 of 1998 before this Court which was disposed of with a direction to the petitioners to file a petition for review of the impugned order dated 05.08.1998 before the court below within one month from the date of order for deciding the same on merit in accordance with the provisions of law as well as observation of this Court. The petitioner accordingly filed petition but it was rejected as it was filed beyond the period given by this Court. The contention of learned counsel is that the court below had no jurisdiction to entertain any petition for condoning the delay in filing the review application. The petitioners suppressing these facts got the order dated 09.02.2018 passed *ex parte* and so the same is fit to be recalled.

5. The learned counsel for the respondents on the other hand submits that the respondents had already appeared in pursuance of notice issued against them. The name of learned counsel was appearing and the said revision application was converted into a writ application under Article 227 of the Constitution of India in their presence and so no notice was required to be issued again. The order was passed after full hearing, the same does not require to be reviewed. The ground taken for review is not sustainable and so the application deserves to be dismissed.



6. On perusal of record I find that the respondents had already appeared in this case and the order converting Civil Revision No.1102/2009 into writ was passed in his presence on 15.07.2010 and so fresh notice was not required to be issued against the respondents.

7. So far merit of the case is concerned, I find that the petitioners claim suit property on the basis of Basgit Parcha. The petitioners had submitted an application before the Circle Officer, Bakhari on the basis of which Basgit Parcha Case No.66/1988-89 was registered. On the application of petitioners, Revenue authorities submitted report in the said proceeding. The Circle Officer considering the possession of petitioners over the disputed land and also the recommendation of Revenue Officer/Karmchari ordered to issue Basgit Parcha in favour of the petitioners. The respondents filed Title Suit No. 119 of 1991 against the State of Bihar and others without impleading these petitioners. These petitioners claim right and interest over the suit land on the basis of Basgit Parcha, since before the filing of suit. They filed a petition under Order 1 Rule 10 of Civil Procedure Code which was rejected by the court below. The petitioners filed Civil Revision No. 1818 of 1998 before this Court which was disposed of with some observation. Thereafter the petitioners filed petition before court below along with a petition under section 5 of Limitation Act for condoning the delay in filing the



review application. The court below rejected the said petition without considering the grounds taken in the limitation petition. This Court has remitted the matter to the court below as per order dated 09.02.2018 for passing fresh order after considering the grounds taken in the limitation petition.

8. In view of above facts, I do not find any merit in this review application and accordingly the prayer of the petitioners as made in I.A. No. 2030 of 2018 is dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27/03/2018
Transmission Date	

