

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20610 of 2011

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Ved Prakash Chaudhary Son of Ramesh Chandra Chaudhary, resident of Mo. Katra, Hazipur at present residing at Mo.-Pokhara, Rajendra Chowk, P.S. Hazipur, District-Vaishali.

.... Petitioner/s

Versus

1. Most. Thulsi Devi Wife of Late Ishwar Chandra, resident of mohalla-Katra town and P.S.-Hajipur District-Vaishali Presently residing at C/o-Bartan Bhandar, Mohalla-Chhata Bajar, P.O., P.S. & District-Muzaffarpur.
2. Rani Devi Daughter of Late Ishwar Chandra Chaudhary, Wife of Mahendra Prasad, Resident Of Mohalla-Katra Town And P.S.-Hajipur, District-Vaishai Presently Residing At C/o-Bartan Bhandar, Mohalla-Chhata Bajar, P.O., P.S. And District-Muzaffarpur.
3. Sona Devi Daughter of Late Ishwar Chandra Chaudhary, Wife Of Shankar Prasad Sah, Resident Of Mohalla-Katra Town And P.S.-Hajipur District-Vaishali Presently Residing At Mo.-Kasera Toli, P.O., P.S. And District-Siwan.
4. Ramesh Chandra Chaudhary Son of Late Bharat Chaudhary, Residents Of Mohalla Katra, Hajipur At Present Residing At Rajendra Chowk, P.S. Hajipur, District-Vaishali.
5. Prem Chandra Chaudhary Son of Late Bharat Chaudhary, Residents Of Mohalla Katra, Hajipur At Present Residing At Rajendra Chowk, P.S. Hajipur, District-Vaishali.
6. Badri Nath Chaudhary Son of Ramesh Chandra Chaudhary, Resident Of Mohalla Katra, Hajipur At Present Residing At Rajendra Chowk, P.S. Hajipur, District-Vaishali.
7. Om Prakash Choudhary Son Of Ramesh Chandra Choudhary, Residents Of Mohalla Katra, Hajipur At Present Residing At Rajendra Chowk, P.S. Hajipur, District-Vaishali.
8. Ghosh Chaudhary @ Subhash Chaudhary Son of Ramesh Chandra Chaudhary, Residents Of Mohalla Katra, Hajipur At Present Residing At Rajendra Chowk, P.S. Hajipur, District-Vaishali.
9. Sanjay Choudhary Son of Prem Chandra Chaudhary, Resident Of Mohalla Katra, Hajipur At Present Residing At Rajendra Chowk, P.S. Hajipur, District-Vaishali.
10. Mritunjah Chaudhary Son of Prem Chandra Chaudhary, Resident Of Mohalla Katra, Hajipur At Present Residing At Rajendra Chowk, P.S. Hajipur, District-Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bajarangi Lal, Adv.

For the Respondent/s : Mr. Nirmal Kumar Sinha No. 3, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 05-10-2018



Petitioner before this Court is applicant of Miscellaneous Case No. 14 of 2001 pending in the court of Sub-Judge-I, Vaishali at Hajipur.

2. Heard learned counsels for the petitioner as well as the respondents and perused the record.

3. Petitioner before this Court filed the aforesaid miscellaneous case under Order IX Rule 13 read with section 151 of Code of Civil Procedure for setting aside the *ex parte* judgment and decree passed in Partition Suit No. 13 of 1972. After closing the evidence of both sides when the matter was pending for argument, this petitioner filed an amendment petition for amending the date of judgment and decree.

4. It has been submitted that the suit was actually decreed *ex parte* on 30.06.1986, but inadvertently in miscellaneous application at para 3 and in prayer portion, the date of decree was wrongly typed as 24.06.1986. The date mentioned in miscellaneous application is purely a typing mistake. It is not in dispute that the judgment and decree by passed *ex parte* on 30.06.1986. The learned court below has rejected the amendment petition observing that it was filed after a delay of more than 10 years.

5. The learned counsel for the respondents opposed the submission made by the applicant, but he concedes that judgment and



decree was passed on 30.06.1986. The amendment is purely a typing mistake and if allowed, it would not change the nature of the pleading or defence of the respondents.

6. In view of above discussions, the impugned order rejecting the amendment petition is set aside and this writ application is allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08/10/2018
Transmission Date	N/A

