

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.763 of 2017

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1. Chanchala Devi, W/o late Puneshwar Parasad Singh.
2. Kiran Devi, Wife of Late Gyaneshwar Singh.
3. Rakesh Kumar, Son of Late Gyaneshwar Singh
4. Babita Devi, Wife of Late Rajeshwar Singh.
5. Pappu, Minor son of late Rajeshwar Singh and legal guardian is Babita Devi.
6. Simpu, minor son of Late Rajeshwar and Legal guardian is Babita Devi.
7. Tarawati Devi, W/o late Madheshwar Prasad Singh @ Madhu.
8. Jeevraj Kumar Singh, Son of Late Tarkeshwar Singh.
9. Anita Devi @ Kamala Devi, Wife of late Dineshwar Singh.
10. Rantosh Kumar, son of Puneshwar Singh.
11. Akhileshwar Prasad Singh, Son of Late Tarkeshwar Singh, All resident of Mohalla- Rajapur, P.S.- Sri Krishnapuri, District- Patna.

.... Petitioner/s

Versus

1. Most. Reshma Devi, Wife of Late Sukhdeo Singh.
2. Subodh Kumar, Son of Late Sukhdeo Singh.
3. Pramod Kumar I Son of Late Sukhdeo Singh.
4. Brahamdeo Singh, Son of Late Maha Singh.
5. Jagarnath Singh, Son of Late Maha Singh.
6. Baij Nath Singh, Son of Late Maha Singh.
7. Ajay Singh, Son of Late Kamla Saran Singh.
8. Smt. Sabitri Devi, Wife of Jagarnath Singh.
9. Prem Singh, Son of late Raj Nath Singh.
10. Dinanath Singh, Son of Baijnath Singh.
11. Dilip Singh, Son of Late Raj Nath Singh, All resident of Mohalla- Rajapur, P.S.- Sri Krishnapuri, District- Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Deepak Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

2 01-10-2018 Heard Mr. Sharda Nand Mishra, learned counsel for the
petitioners.

The petitioners are the defendants in Title Suit No.459 of
1995. Plaintiff No.1, Sukhdeo Singh of Title Suit No.459 of 1995



died on 30.11.1999 and the suit was dismissed on 28.03.2003. Misc. Case No.15 of 2003 was allowed on 07.02.2011. The petitioners filed CWJC No.4793 of 2011 against the order dated 07.02.2011 passed in Misc. Case No.15 of 2003 and this Court vide order dated 05.05.2011 set aside the order dated 07.02.2011 with a direction to the trial court to hear the limitation petition and pass order in accordance with law for restoring the application after giving full opportunity to both sides. By the impugned order dated 06.03.2017, the learned Sub Judge II, Patna allowed the miscellaneous case setting aside the order dated 28.03.2003 dismissing the suit for non-prosecution.

Mr. Sharda Nand Mishra, learned counsel for the petitioners submits that the suit was dismissed on 28.03.2003 but the restoration petition was filed by the wife of plaintiff No.1 who died during the pendency of the suit but the legal heirs of the plaintiff No.1 were not substituted. It is further submitted that delay has not been explained but I find no force in the submission of the learned counsel for the petitioners.

On perusal of the order, I find that learned Sub Judge has considered the facts preventing the legal heirs of plaintiff No.1 from filing any petition for restoration or substitution of their names after death of Sukhdeo Singh, plaintiff No.1.



Considering the facts aforesaid, I do not find any merit in this civil miscellaneous petition, accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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