

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1736 of 2017

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1. Rup Kala Das W/o Indra Bhushan Das, Resident of Village- Ram Bishanpur, P.S.- Raghapur, District- Supaul.
2. Jai Prakash Das S/o Late Deo Nandan Das, Resident of Village- Kamat Kishanganj, P.S.- Chhatapur, District- Supaul.

.... Petitioner/s

Versus

1. Raj Kumar Ram
2. Kameshwar Ram
3. Ramesh Ram All sons of Late Munga Lal Ram
4. Mostt. Kamli Devi W/o Late Munga Lal Ram
5. Anish Kumar Mehta
6. Sanod Ram Both Sons of Late Deo Narayan Ram
7. Mahendra Ram S/o late Bhago Ram
8. Manoj Ram
9. Goutam Ram Both Sons of late Basudeo Ram All Resident of Village- Shivrahi, P.S. Raghapur, District- Supaul.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Pranav Kumar Jha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

5 30-07-2018 Heard Mr. Subodh Kumar Jha for the petitioners and Mr. Dronacharya, learned counsel for the respondents.

The petitioners filed this civil miscellaneous petition against the order dated 09.08.2017 passed by Sub Judge I, Birpur in Misc. Case No.9 of 2012 by which the learned Sub Judge restored Title Suit No.109 of 2008. Admittedly, Title Suit No.109 of 2008 was dismissed on 23.03.2012. The plaintiff-respondents filed Misc. Case No.9 of 2012 to restore Title Suit No.109 of 2008 but Misc. Case No.9 of 2012 was also dismissed on 23.02.2017 for



non-prosecution. The plaintiff again filed a petition to restore Misc. Case No.9 of 2012 on 01.08.2017 but by the impugned order, it appears that learned Sub Judge has restored Title Suit No.109 of 2008 instead of restoring Misc. Case No.9 of 2012.

Mr. Dronacharya, learned counsel for the respondents-plaintiffs very fairly submitted that firstly Misc. Case No.9 of 2012 should have been restored and it appears that some mistake has been committed.

Having considered the facts aforesaid that instead of firstly restored Misc. Case No.9 of 2012 which was dismissed on 23.02.2017 in which the petition for restoring the Misc. Case was filed on 01.08.2017 with a prayer to restore Misc. Case No.9 of 2012, learned Sub Judge restored Title Suit No.109 of 2008.

Thus, I find that learned Sub Judge has committed error. Accordingly, the order dated 09.08.2017 is set aside and the matter is remitted to the learned Sub Judge I, Birpur to pass order afresh in accordance with law on the petition of the plaintiff after hearing both sides.

Thus, this civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

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