

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.363 of 2017**

Syed Hasnain Ahmad @ Syed Husnain Quadri Sazadda Nashin Khanquah
Mohammadia Quadria, son of Late Gulam Qutubuddin, resident of village-
Amjhar Sarief, Post-Haspura, Police Station Haspura, District-Aurangabad
... .. Petitioner/s

Versus

Syed Sharfuddin Quadri son of Late Qutubuddin, resident of village-
Amjharsharief, Post Haspura, Police Station Haspura, District-Aurangabad
... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar No.- 4
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER**

3 29-11-2018 Heard learned counsel for the petitioner.

The petitioner has filed this civil miscellaneous petition against the order dated 16.01.2017 passed by Sub Judge VII, Aurangabad in Title Suit No.213 of 1992/51 of 2006/21 of 2016.

The petitioner is defendant. Defendant filed three petitions first, under Order I Rule 10(2) C.P.C., second, under Order VII Rule 11 C.P.C. and third, petition for issuance of show cause to C.O., Haspura, District-Aurangabad for non-compliance of the order passed in Misc. Appeal No.12 of 1992 by the 3rd Additional Judge, Aurangabad. Learned Sub Judge by a common order dated 16.01.2017 held that C.O. did not disobey any order of the appellate court passed in Misc. Appeal No.11 of 1992 rather the appellate court set aside the order of



the Munsif passed in Title Suit No.213 of 1992 granting injunction in favour of the plaintiff. The petition under Order VII Rule 11 C.P.C. was dismissed and found that the plaint is not liable to be rejected on any ground and the defendant filed the petition under Order VII Rule 11 C.P.C. at a very belated stage. Subsequently, petition under Order I Rule 10(2) to strike out the name of the plaintiff has also been rejected that the plaintiff has already been substituted by his legal heirs under Order XXII Rule 4 C.P.C. and the defendant did not challenge the order substituting the legal heirs of plaintiff in the year 2000. The defendant did not raise any objection or filed petition against the order of substitution of the legal heirs of the plaintiff. The plaintiff filed the petition after 16 years of substitution.

Learned counsel for the petitioner submits that all the three petitions have wrongly been dismissed by the Sub Judge but I find no substance on the submission of the learned counsel for the petitioner. I find that the petitioner-defendant filed all three frivolous petitions which have rightly been dismissed. Accordingly, I do not find any merit in this civil miscellaneous petition and the same is dismissed.

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(Prabhat Kumar Jha, J)

