

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.2410 of 2014**

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Md. Qismat Ali Son Of Late Abdul Majid Resident Of Village - Sabalpur,  
Police Station - Morkahi, District - Khagaria

.... .... Petitioner

Versus

1. Mahindra Yadav Son Of Late Magan Yadav
2. Bimla Devi Wife Of Mahendra Yadav Resident Of Village - Sabalpur,  
Police Station - Morkahi, District - Khagaria
3. Gaya Devi Wife Of Late Garib Lal Yadav Resident Of Village -  
Barhahma, Police Station - Chautham, District - Khagaria
4. Gharni Devi Wife Of Late Garib Lal Yadav Resident Of Village -  
Barhahma, Police Station - Chautham, District - Khagaria
5. Manoj Yadav Son Of Late Garib Lal Yadav Resident Of Village -  
Barhahma, Police Station - Chautham, District - Khagaria
6. Daulat Yadav Son Of Late Garib Lal Yadav Resident Of Village -  
Barhahma, Police Station - Chautham, District - Khagaria
7. Veena Devi Daughter Of Late Garib Lal Yadav Resident Of Village -  
Barhahma, Police Station - Chautham, District - Khagaria
8. Parfulla Yadav Son Of Bhugendra Yadav Resident Of Village -  
Barhahma, Police Station - Chautham, District - Khagaria
9. Ravindra Yadav Son Of Late Jagilal Yadav Resident Of Village -  
Sabalpur, Police Station - Morkahi, District - Khagaria
10. Jayveer Yadav Son Of Late Jagilal Yadav Resident Of Village -  
Sabalpur, Police Station - Morkahi, District - Khagaria
11. Rambriksha Yadav Son Of Late Jagilal Yadav Resident Of Village -  
Hathwan Tola, Garh Banni, P.O. Raun, Police Station - Alauli, District -  
Khagaria
12. Rameshwar Yadav Son Of Late Jagilal Yadav Resident Of Village -  
Hathwan Tola, Garh Banni, P.O. Raun, Police Station - Alauli, District -  
Khagaria
13. Md. Sattar Ali Son Of Late Abdul Majid Resident Of Sabalpur, Police  
Station - Morkahi, P.O. Mandar, District - Khagaria
14. Md. Takim Son Of Late Kabiruddin Resident Of Sabalpur, Police  
Station - Morkahi, P.O. Mandar, District - Khagaria
15. Md. Alam Son Of Late Kabiruddin Resident Of Sabalpur, Police Station  
- Morkahi, P.O. Mandar, District - Khagaria
16. Md. Insan Son Of Late Kabiruddin Resident Of Sabalpur, Police Station  
- Morkahi, P.O. Mandar, District - Khagaria
17. Md. Rizwan Son Of Late Abdul Jalil Resident Of Sabalpur, Police  
Station - Morkahi, P.O. Mandar, District - Khagaria
18. Md. Julfekar Son Of Late Abdul Jalil Resident Of Sabalpur, Police  
Station - Morkahi, P.O. Mandar, District - Khagaria
19. Ehmanul Haque Son Of Late Abdul Jalil Resident Of Sabalpur, Police  
Station - Morkahi, P.O. Mandar, District - Khagaria
20. Md. Azmat Son Of Late Wali Mohammad Resident Of Sabalpur, Police  
Station - Morkahi, P.O. Mandar, District - Khagaria

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Anamul Haque, Advocate  
For the Respondents : Mr. Rajesh Kumar, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**



ORAL ORDER

3      23-01-2018                      This application has been filed to quash the order dated 18.07.2013 passed by learned Munsif, Khagaria in Title Suit No.16 of 2011 whereby and whereunder the learned Munsif refused to recall the order fixing the case for ex-parte hearing.

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

3. After hearing both sides and on perusal of impugned order, I find that the court below refused to recall the ex-parte hearing observing firstly that the notices were duly received by other defendants who are close relatives of the petitioner and secondly, that the defendants refused to receive the summons which were sent through registered post. The notices issued under registered as well as through process server admittedly were not received by the petitioner. The other defendants who are said to be the family members had received the notice. There is nothing in the impugned order to show that this petitioner was residing with other defendants in jointness and so it could not have been declared validly served on the petitioner. In such circumstance, the impugned order refusing to recall the ex-parte hearing is not sustainable and is set aside.

4. This application is allowed.

B.Kr./-

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**(Sanjay Kumar, J)**

