

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3858 of 2013

In
S.A. No. 434 of 1989

-
1. Most. Juwa Devi, Wife of Late Shree Chand Mandal & Daughter-in-law of Late Punia Devi.
 2. Awadhesh Mandal Son of Late Shree Chand Mandal & Grandson of Late Punia Devi.
 3. Naresh Yadav Son of Late Shree Chand Mandal & Grandson of Late Punia Devi.
 4. Ram Pukar Yadav Son of Late Shree Chand Mandal & Grandson of Late Punia Devi. All resident of Village-Sahuriya (East) Tola, Arrah, P.S.-Saur Bazar, District-Saharsa (Bihar).
 5. Binod Yadav Son of Late Dular Devi
 6. Sumitra Devi daughter of Late Dular Devi
 7. Usha Devi daughter of Late Dular Devi
 8. Lalita Devi daughter of Late Dular Devi
 9. Manoj Yadav Son of Late Dular Devi.
 10. Srawan Yadav Son of Late Dular Devi Sl. No.5 to 10 are resident of Village-Jharkaha, P.S.-Triveniganj, District-Madhepura (Bihar).
 11. Akashmani Devi @ Akash Devi Wife of Sri Tarari Yadav and Daughter of Late Panchu Yadav, Resident of Village-Khajuri, P.S.-Saur Bazar, District-Saharsa (Bihar).
 12. Sanjay Yadav Son of Late Ghoghari Devi & Daughter of Chandeshwari Yadav.
 13. Chatish Yadav Son of Late Ghoghari Devi & Chandeshwari Yadav.
 14. Nirmaya Devi Daughter of Late Ghoghari Devi & Chandeshwari Yadav.
 15. Jaymala Devi Daughter of Late Ghoghari Devi & Chandeshwari Yadav. Sl. No.12 to 15 are resident of Village-Biwari, P.S.-Saharsa, District-Saharsa (Bihar).
 16. Anil Yadav Son of Late Kaili Devi & Sri Ramdeo Yadav. Resident of Village-Khajuria, P.S.-Saur Bazar, District-Saharsa (Bihar).
 17. Jaya Devi Wife of Late Siyaram Mandal.
 18. Vijayendra Kumar Yadav Son of Late Siyaram Mandal.
 19. Kailash Yadav Son of Late Siyaram Mandal.
 20. Narayan Yadav Son of Late Siyaram Mandal.
 21. Akhilesh Kumar Son of Late Kulanand Mandal.
 22. Sarvesh Kumar Son of Late Kulanand Mandal.
 23. Mina Devi daughter of Late Kulanand Mandal.
 24. Matrika Devi Daughter of Late Kulanand Mandal.
 25. Yogendra Yadav Son of Late Saryug Mandal @ Saryug Yadav.
 26. Prithvi Mandal @ Prithwi Chand Mandal Son of Late Panchu Mandal.
 27. Most. Mulur Devi Wife of Late Kishundhan Mandal.
 28. Arvind Yadav Son of Late Kishundhan Mandal.
 29. Pulo Yadav Son of Late Kishundhan Mandal.
 30. Sulendra Yadav Son of Late Kishundhan Mandal.
 31. Chandrika Devi Daughter of Late Kishundhan Mandal.
 32. Kendula Devi Daughter of Late Kishundhan Mandal.
 33. Sunita Devi Daughter of Late Kishundhan Mandal.
 34. Draupadi Devi Wife of Late Bhaijee Mandal @ Satya Narain Mandal.
 35. Brajesh Yadav Son of Late Bhaijee Mandal @ Satya Narain Mandal.



36. Sanjeev Mandal @ Sanjiv Kumar Son of Late Bhaijee Mandal @ Satya Narain Mandal.
37. Babloo Kumar Son of Late Bhaijee Mandal @ Satya Narain Mandal.
38. Vibha Devi Daughter of Late Bhaijee Mandal @ Satya Narain Mandal.
39. Gulav Mandal @ Gulab Mandal Son of Late Baijal Mandal.
40. Bacha Mandal @ Brahmdeo Mandal @ Brahmdeo Yadav Son of Late Baijal Mandal.
41. Bindeshwari Mandal Son of Late Dhorhai Mandal.
42. Kamleshwari Mandal Son of Late Balo Mandal.
43. Dinesh Yadav @ Dinesh Mandal Son of Late Balo Mandal.
44. Gossain Mandal @ Satya Narayan Mandal Son of Late Bhola Mandal
Sl. No.17 to 44 are resident of Village-Sauriya (East) Tola, Arrah, P.S.-
Saur Bazar, District-Saharsa (Bihar).

.... Petitioner/s

Versus

1. Janki Devi Wife of Late Bindeshwari Mandal
2. Pawan Kumar Son of Late Bindeshwari Mandal
3. Nand Kumar Son of Late Bindeshwari Mandal
4. Jai Kumar Son of Late Bindeshwari Mandal
5. Lalan Kumar Son of Late Bindeshwari Mandal
6. Manoj Kumar Son of Late Bindeshwari Mandal All Resident of Village-Saiuriya (East) Tola, Arrah, P.S.-Saur Bazar, District-Saharsa (Bihar).
7. Andula @ Bhutti Daughter of Late Bindeshwari Mandal & Wife of Sri Om Yadav Resident of Village-Inrak, P.S.-Saur Bazar, District-Saharsa (Bihar).
8. Kendula Devi Daughter of Late Bindeshwari Mandal & Wife of Sri Ram Chandra Yadav.
9. Ranjit Yadav Son of Late Ram Bilash Mandal.
10. Jai Kant Kumar Son of Late Ram Bilash Mandal.
11. Nutan Devi Daughter of Late Ram Bilash Mandal & Wife of Chandar Yadav Resident of Village-Patraha, P.O. & P.S.-Madhepura, District-Madhepura (Bihar).
12. Radha Devi Daughter of Late Ram Bilash Mandal & Wife of Ganga Ram Yadav Resident of Village-Parmapur, P.S. Dhelar, District-Madhepura (Bihar).
13. Manjula Devi Wife of Late Ram Bilash Mandal
14. Jageshwar Mandal @ Jog Narayan Mandal Son of Late Ramphal Mandal.
15. Deo Narayan Mandal Son of Late Ramphal Mandal.
16. Kamleshwari Mandal Son of Late Ramphal Mandal.
17. Nageshwar Mandal Son of Late Ramphal Mandal. Sl. No. 13 to 17 all are resident of Village-Saiuriya (East) Tola, Arrah, P.S.-Saur Bazar, District-Saharsa (Bihar).

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate
For the Respondent/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Md. Imteyaz Ahmad, Advocate

=====



CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

15 05-07-2018 Heard learned counsel for the petitioners as well as learned counsel for appearing respondents.

S.A. No.434 of 1989 was dismissed against Respondent No.1(b), (c), (e), (f), (g), (h) and (i) due to non-compliance of peremptory order of the Court dated 02.04.1999, for filing of requisites and issuance of notices. Thereafter, on 25.06.2001, this Court ordered that the whole second appeal is incompetent because in absence of the aforesaid heirs of Respondent No.1 inconsistent judgment and decree is likely to be passed. The order aforesaid was challenged in MJC No.2455 of 2001, a petition filed under Section 151 of the Civil Procedure Code. On 08.10.2001, this Court passed the following orders.

“This MJC application has been preferred by the appellants of S.A. No.434 of 1989 for setting aside the order dated 25.06.2001 in the appeal, whereby it has been held that the same has become incompetent as a whole. In view of the stamp report dated 04.10.2001, the present application is not maintainable.

This MJC is accordingly, dismissed.”

Thereafter, the appellants of second appeal challenged the aforesaid order passed in MJC No.1921 of 2002, a petition under Section 151 of the Civil Procedure Code. On 17.02.2003,



this Court passed following orders.

“None had appeared on behalf of the appellant when the matter was taken up by Lawazima Board on 03.12.2002. The time granted by order dated 03.12.2002 has also not been utilized to remove the defects. None appears on behalf of petitioners today also. Two weeks’ time is granted to carry out the order dated 03.12.2002, failing which the MJC application shall stand rejected without further reference to any Bench.

But the aforesaid order was not complied and accordingly MJC application stood dismissed. Thereafter, the present MJC application has been filed for recalling the order dated 02.04.1999 passed in the second appeal aforesaid and the consequential order dated 25.06.2001 passed in the aforesaid second appeal, as referred to above.

In view of the orders passed in MJC application aforesaid, which got finality, this application by way of second attempt cannot be entertained.

Accordingly, it stands dismissed as devoid of any merit.

(Birendra Kumar, J)

Abhishek

U			
---	--	--	--

