

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.260 of 2018

Rehana Khatoon, Wife of Istekhar Ahmad, Resident of Village- Gopalpur,
P.O.- Bakarganj, Police Station- Hussainganj, District- Siwan.

... .. Petitioner

Versus

1. Syed Nazar Abbas, son of Ghulam Sadique,
2. Syed Shabbar Abbas, Son of Ghulam Sadique,
3. Syed Chulam Abbas, Son of Late Syed Qamar Abbas.
4. Mehdi Abbas, Son of Late Syed Qamar Abbas.
5. Mehrun Nisa, Wife of Late Syed Qamar Abbas. All resident of Village-
Gopalpur, Police Station- Hussainganj, P.O. Bakarganj, District- Siwan.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Raghav Prasad
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 27-09-2018

Heard Mr. Raghav Prasad, the learned counsel appearing
on behalf of the petitioner.

2. The petitioner has filed this civil miscellaneous
petition under Article 227 of the Constitution of India for quashing
the order dated 06.12.2017, passed by the learned 5th Additional
District Judge, Siwan in Misc. Appeal No.08 of 2013 by which the
learned Additional District Judge directed the petitioner to produce
the compromised judgement and decree passed in Title Suit No.11
of 1974.

3. The learned counsel for the petitioner submits that
admittedly the father of the petitioner filed Title Suit No.11 of



1974 and the same was decreed on compromise under Order XXIII Rule 1 but father of the petitioner died. Execution Case No.6 of 1998 was filed for execution of the compromise decree passed in Title Suit No.11 of 1974. Defendant no.9 filed petition under Order XXI Rule 97 of the CPC. The learned executing court dismissed the petition of defendant no.9 and against that order defendant no.9 filed Misc. Appeal No.08 of 2013. During the pendency of the execution case, defendant no.9 died and his legal heirs were substituted who filed Misc. Appeal No.08 of 2013. It is further submitted that the father of the petitioner also died and she being a lady had no knowledge about the judgment and decree passed in Title Suit No.11 of 1974 but the court by the impugned order directed the petitioner to produce those documents.

4. It appears from the perusal of the rejoinder filed by the petitioner that the petitioner did not state anywhere that she is not in a position to trace out the record of judgment and decree passed in Title Suit No.11 of 1974 rather she stated that the judgment and decree passed in aforesaid suit is not material and relevant for the disposal of Misc. Appeal No.08 of 2013. The court directed the petitioner to produce those documents as the petitioner happens to be the daughter of the plaintiff of Title Suit No.11 of 1974, therefore, I do not find any apparent error in the order



impugned. Accordingly, the civil miscellaneous petition is dismissed with liberty to the petitioner that if the petitioner could not be able to trace out the judgment and decree passed in Title Suit No.11 of 1974, the petitioner may file petition before the court about his inability in tracing out the records and producing the same in court and on such the learned court below shall pass order in accordance with law.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.10.2018
Transmission Date	NA

