

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1634 of 2018**

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Gualb Chand Prasad @ Gualb Chand Doman Prasad

... .. Petitioner/s

Versus

Shrinath Prasad & Ors

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Abhishek Kumar
For the Respondent/s : Mr.

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

2 30-11-2018

Heard learned counsel for the petitioner.

The petitioner has filed this civil miscellaneous petition against the order dated 23.07.2018 passed in Title Appeal No.40/27 of 2017 by which the petition of the petitioner for sending the lower court record along with the judgment and decree to the original court for correction in the decree has been dismissed.

Learned counsel for the petitioner submits that the plaintiff filed the petition for partition of the property mentioned in Schedule A and B of the plaint. Learned court below partly decreed the suit holding that the property mentioned in Schedule A of the plaint is ancestral property of the plaintiff and defendant and the property mentioned in Schedule B of the plaint is self-acquired property of the defendant but some of the plots mentioned in Schedule B of the plaint have also been



ordered to be partitioned in the decree and, therefore, the petitioner filed petition before the learned Additional District Judge VI, Kaimur for sending down the records to the original court for necessary correction under Section 152 C.P.C..

It appears that the learned Additional District Judge did not record any finding whether any error is committed in the decree with regard to the land mentioned in Schedule B of the plaint and rejected the petition of the petitioner. In this view of the fact, I dispose of this civil miscellaneous petition with a direction to the petitioner to present the petition for correction of the decree in the original court i.e. before Sub Judge V, Kaimur, Bhabua, who decided Title suit No.5631 of 2014/8680 of 2014, and he shall request the appellate court to send down the records of Title Suit No.5631 of 2014/8680 of 2014 and if the learned Sub Judge V, Kaimur finds that some clerical error occurred in the decree, learned Sub Judge shall pass order in accordance with law. With the aforesaid observation, this civil miscellaneous petition is disposed of.

(Prabhat Kumar Jha, J)

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