

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.539 of 2019

Sanjay Kumar Singh S/o Mahawarni Singh R/o- Village- Maudhaneshwar
Mirjapur, Pargana Balagach, P.S. Vidyapati Nagar, Sub Division and Sub
Registry- Dalsingh Sarai, District- Samastipur.

... .. Plaintiff No. 3-Respondent No. 3-Petitioner
Versus

1. Gayatri Devi Wife of late Ramakant Chaudhary R/o Village and P.O. Soera, Pargana- Saraisa, P.S. and Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
2. Satish Kumar Chaudhary Son of late Ramakant Chaudhary R/o Village and P.O. Soera, Pargana- Saraisa, P.S. and Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
3. Mani Kant Chaudhary Son of late Ramakant Chaudhary R/o Village and P.O. Soera, Pargana- Saraisa, P.S. and Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
4. Arun Kumar Chaudhary Son of late Ramakant Chaudhary R/o Village and P.O. Soera, Pargana- Saraisa, P.S. and Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
5. Radha Kant Chaudhary Son of late Ram Bahadur Chaudhary R/o Village and P.O. Soera, Pargana- Saraisa, P.S. and Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
6. Gauri Kant Chaudhary Son of late Ram Bahadur Chaudhary R/o Village and P.O. Soera, Pargana- Saraisa, P.S. and Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
7. Upendra Kumar Chaudhary Son of late Narayan Chaudhary R/o Village and P.O. Soera, Pargana- Saraisa, P.S. and Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
8. Devendra Kumar Chaudhary Son of late Narayan Chaudhary R/o Village and P.O. Soera, Pargana- Saraisa, P.S. and Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
9. Om Prakash Chaudhary @ Tunna Chaudhary S/o late Laxmi Chaudhary R/o Village and P.O. Soera, Pargana- Saraisa, P.S. and Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
10. Vikash Bhartendu 2 Chhotu minor son of late Laxmi Chaudhary, under the natural Guardianship of his mother Shakuntala Devi R/o Village and P.O. Soera, Pargana- Saraisa, P.S. and Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
11. Shakuntala Devi W/o late Laxmi Chaudhary R/o Village and P.O. Soera, Pargana- Saraisa, P.S. and Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.

...Defendants..Respondents..Respondents

12. Ram Chandra Singh Son of Raja Ram Singh Resident of Village- Maudhaneshpur Miezapur, Pargana- Balagach, P.S.- Vidyapati Nagar, Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
13. Mahawarni Singh Son of Raja Ram Singh Resident of Village-



Maudhaneshpur Miezapur, Pargana- Balagach, P.S.- Vidyapati Nagar, Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.

14. Ranjay Kumar Singh Son of Mahawarni Singh Resident of Village- Maudhaneshpur Miezapur, Pargana- Balagach, P.S.- Vidyapati Nagar, Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
15. Vinod Kumar Singh Son of Mahawarni Singh Resident of Village- Maudhaneshpur Miezapur, Pargana- Balagach, P.S.- Vidyapati Nagar, Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
16. Ram Baran Singh Son of Ram Chandra Singh Resident of Village- Maudhaneshpur Miezapur, Pargana- Balagach, P.S.- Vidyapati Nagar, Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.
17. Ram Uchit Singh Son of Ram Chandra Singh Resident of Village- Maudhaneshpur Miezapur, Pargana- Balagach, P.S.- Vidyapati Nagar, Sub Division and Sub Registry Dalsingh Sarai, District- Samastipur.

...Plaintiffs-Respondents-Performa Respondents

... ... Respondents

Appearance :

For the Petitioner : Mr.Harendra Kumar Tiwary, Advocate
For the Respondent : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 06-09-2019

Heard learned counsel for the petitioner.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 19.12.2018 passed by the learned Additional District Judge, Dalsinghsarai (Samastipur) in Title Appeal No. 32 of 2011 by which he has allowed the petition dated 27.07.2017 ordered for substitution of heirs of defendant-respondent no. 2 and for deleting the name of defendant-respondent no. 2 Mahawarni Singh.

3. Learned counsel appearing for the petitioner submitted that the order impugned has been passed without



application of judicial mind. The court below ought to have held that the appeal had got itself abated in the year 2014 due to non-substitution of defendant-respondent no. 1 Ram Chandra Singh, who died on 13.12.2013.

4. The application before the court was for substitution of defendant-respondent no. 2 Mahawarni Singh, who had admittedly died on 31.05.2017. The same was filed within time.

5. In that view of the matter, the court below committed no error in allowing the application dated 27.07.2017 whereby the legal heirs of defendant-respondent no. 2 Mahawarni Singh were substituted and the name of deceased defendant-respondent no. 2 was ordered to be deleted.

6. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.09.2019
Transmission Date	

