

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.262 of 2016

1. Smt. Geeta Poddar @ Geeta Devi and Anr wife of Basuki Nandan Poddar
2. Smt. Rita Poddar @ Rita Devi wife of Bhusandeo Poddar Both residents of Village and P.O.- Sakarpura, Pargana- Balia, Thana, S.D. and S.R.- Bakhri, District- Begusarai.

... .. Petitioner/s

Versus

1. Madan Mohan Singh and Ors son of Late Shiv Shankar Singh resident of Village and P.O.- Sakarura, Pargana- Ballia, Thana- S.D. and S.R. Bakhri, District- Begusarai.
2. Bina Devi wife of Late Pratepeshwar Singh
3. Bikram Pratap Singh son of Late Pratepeshwar Singh
4. Banshala Devi Daughter of Late Pratepeshwar Singh
5. Batashala Devi Daughter of Late Pratepeshwar Singh
6. Saneshmayee Singh wife of Late Jogesh Singh
7. Yasraj Singh son of Late Jogesh Singh
8. Kumar Satyajeet Singh son of Late Jogesh Singh
9. Sukriti Devi Daughter of Late Jogesh Singh
10. Divya Kumari Daughter of Late Jogesh Singh
11. Smt. Gayatri Devi wife of Late Bisheshwar Prasad Singh
12. Kamakhya Singh son of Late Bisheshwar Prasad Singh
13. Rahul Singh son of Late Bisheshwar Prasad Singh
14. Kameshwar Singh son of Late Laliteshwar Prasad Singh
15. Siladitya Prasad Singh son of Late Laliteshwar Prasad Singh
16. Amresh Prasad Singh son of Laliteshwar Prasad Singh
17. Savitri Devi widow of Late Bishundeo Mahton
18. Dhirendra Mahton @ Kari son of Late Bishundeo Mahton
19. Sikandar Mahton son of Late Bishundeo Mahton
20. Mukendar Mahton son of Late Bishundeo Mahton
21. Ghurni Devi Daughter of Late Bishundeo Mahton
22. Sangita Devi Daughter of Late Bishundeo Mahton
23. Md. Umar son of Late Md. Islam
24. Md. Ihtashan son of Late Md. Islam
25. Md. Amzad son of Late Md. Islam
26. Bano Khatoon Daughter of Late Md. Islam
27. Rehana Khatoon Daughter of Late Md. Islam
28. Nasima Khatoon Daughter of Late Md. Islam



29. Rajesh Rajak son of Late Gandhari Rajak
30. Ranjit Rajak son of Late Gandhari Rajak
31. Sanjit Rajak son of Late Gandhari Rajak
32. Shashi Rajak son of Late Gandhari Rajak
33. Lalita Devi Daughter of Late Gandhari Rajak
34. Anita Devi Daughter of Late Gandhari Rajak Si. No.2 to 34 all residents of Village and P.O.- Sakarpura, Pargana- Ballia, Thana, S.D. and S.R.- Bakhri, District- Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Sekhar Dwivedi, Sr. Adv & Mr.Pravin Chandra Prasad, Adv
For the Respondent/s	:	Mr.Abhay Kumar Singh, Adv & Mr. Siddharth Kumar Singh, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 17-10-2019

Heard learned counsel for the parties.

2. This civil revision application has been filed for setting aside the order dated 30.08.2016 passed by District Judge, Begusarai, in Miscellaneous Appeal No. 3 of 2015, by which appeal preferred by opposite party against the judgment and order dated 31.05.2015 passed by Munsif, Bakhari, Begusarai, in Miscellaneous Case No. 13 of 2011 dismissing the application of opposite party for setting aside *ex parte* judgment and decree dated 29.04.2003 passed in Title Suit No. 57 of 1996 has been allowed.

3. Opposite party No. 1 appeared through his counsel and it is stated that against same order petitioners had filed Civil Miscellaneous Petition No. 1160 of 2017 which was heard by a



co-ordinate bench of this Court and dismissed on 24.07.2018, as such present civil revision petition against the same order is not maintainable. The judgment and order passed by a co-ordinate bench of this Court in Civil Miscellaneous Petition No. 1160 of 2017 dismissing the civil miscellaneous case by order dated 24.07.2018, is reproduced here-in-below:-

“Heard the learned counsel for the petitioners.

The petitioners have filed this Civil Misc. petition against the order dated 30.08.2016 passed in Misc. Appeal No. 03 of 2015 by which the learned District Judge set aside the order of the learned Munsif passed in Misc. Case No. 13 of 2011 by which the learned Munsif dismissed the petition of the defendant for setting aside the ex parte judgment and decree passed in Title Suit No. 57 of 1996.

The learned counsel for the petitioner submits that learned District Judge without appreciating the facts that the notice was duly served on the defendant set aside the order passed in Misc. Case No. 13 of 2011 and restored the Title Suit No. 57 of 1996.

Having considered the submissions and on perusal of records I find that Title Suit No. 57 of 1996 was decided ex parte. The defendant filed Misc. Case No. 13 of 2011 for setting aside the ex parte judgment and decree. The defendant came to know about the ex parte judgment and decree only in the year 2011 when Execution case was filed. On perusal of the order of the learned District Judge, it appears that learned District Judge has considered all the facts and found that the defendant has no knowledge about the pendency of the suit and the judgment and decree passed ex parte and, accordingly, set aside the order of learned Munsif by which he dismissed the petition of the defendant for setting aside the ex parte judgment and decree passed in Title Suit No. 57 of 1996.

I do not find any illegality or jurisdictional error in the impugned order. Accordingly, this Civil Misc. petition is dismissed as devoid of any merit.”



4. It is submitted on behalf of petitioners that Civil Miscellaneous Petition No. 1160 of 2017 was filed against order dated 06.02.2017 passed by learned Munsif, Bakhari, Begusarai in Title Execution Case No. 6 of 2011 by which petition dated 02.12.2016 filed by Opposite party to stay the execution proceedings, has been allowed on the ground that the *ex parte* judgment and decree passed in favour of petitioner has been set aside by the appellate court and on such petition, the executing court has stayed the further proceeding in execution case and in said civil miscellaneous petition, the impugned order dated 30.08.2016 was also enclosed as Annexure-6 and after considering the materials available on record a co-ordinate bench of this Court has passed the order as referred above in which it has upheld the impugned order dated 30.08.2016, as such, civil revision petition against the same impugned order is not maintainable and is, accordingly, dismissed.

LCR of this case be returned to the court concerned forthwith.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.12.2019
Transmission Date	NA

