

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.645 of 2019

1. Biroja Devi, W/o Late Munna Gope @ Munna Yadav Residents of Village-Mirjapur, Hardas Bigha, P.S. Fatuah, Post Khusrupur, Dist.-Patna
2. Rajnish Kumar Minor Sons of Late Munna Gope Residents of Village-Mirjapur, Hardas Bigha, P.S. Fatuah, Post Khusrupur, Dist.-Patna
3. Manish Kumar, Minor sons of Late Munna Gope @ Munna Yadav Residents of Village-Mirjapur, Hardas Bigha, P.S. Fatuah, Post Khusrupur, Dist.-Patna
4. Renu Kumari Minor D/o of Late Munna Gope Residents of Village-Mirjapur, Hardas Bigha, P.S. Fatuah, Post Khusrupur, Dist.-Patna
5. Rupa Kumari Minor D/o of Late Munna Gope @ Munna Yadav Residents of Village-Mirjapur, Hardas Bigha, P.S. Fatuah, Post Khusrupur, Dist.-Patna
6. Kiran Devi, D/o Late Lakhan Gope Residents of Village-Mirjapur, Hardas Bigha, P.S. Fatuah, Post Khusrupur, Dist.-Patna

... .. Plaintiffs/ Opposite Party 6 1st set Petitioners
Versus

1. Kameshwar Gope S/o Late Tola Gope, Residents of Village-Mirjapur, P.S. Fatuah, Post Fatuha, Dist.-Patna
2. Baijnath Gope S/o Late Basu Gope Residents of Village-Mirjapur, P.S. and Post Fatuha, Dist.-Patna
3. Shatru Gope S/o Late Basu Gope Residents of Village-Mirjapur, P.S. and Post Fatuha, Dist.-Patna
4. Sabita Devi W/o Late Raju Gope Residents of Village-Mirjapur, P.S. and Post Fatuha, Dist.-Patna
5. Priyanka Kumari D/o Late Raju Gope Residents of Village-Mirjapur, P.S. and Post Fatuha, Dist.-Patna

..... Opposite Party/ Defendants No.2 to 5/ Proforma Respondents 2nd set

6. Ashok Gope S/o Late Lakhan Gope Residents of Village-Mirjapur, Post and P. S.-Fatuha, Dist.-Patna

... .. Opposite Party/ Defendants No.6/ Proforma Respondents 3rd Set

Appearance :

For the Petitioners : Mr. Ajoy Kumar Chakraborty-Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

25-10-2019

Heard learned counsel for the petitioners and
perused the materials available on record.

2. This application under Article 227 of the
Constitution of India has been filed by the petitioners for setting
aside the order dated 02.02.2019 passed by the learned Sub



Judge 1st, Patna City in Miscellaneous Case No.8 of 2015 by which he has rejected the application dated 17.03.2018 filed on behalf of the petitioners under Order-47, Rule-1 read with 114 and 151 of the Code of Civil Procedure (for short 'C.P.C.').

3. The aforesaid application dated 17.03.2018 under Order-47, Rule-1 of the C.P.C. was filed on behalf of the petitioners for review of the order dated 03.11.2017 passed by the learned Sub Judge 1st, Patna City.

4. By the order dated 03.11.2017, the application dated 08.12.2015 filed by the respondent no.1 Kameshwar Gope wherein he had prayed for stay of further proceeding of Title Partition Suit No.412 of 2014 till disposal of the Miscellaneous Case filed for setting aside the ex parte order dated 20.06.2015 was allowed.

5. Being aggrieved by the aforesaid order dated 03.11.2017, the petitioners filed an application under Order-47, Rule-1 read with 114 and 151 of the C.P.C. for recall of the order dated 03.11.2017. They argued before the trial Court that the order dated 03.11.2017 was passed without giving an opportunity of hearing to the petitioners.

6. The trial Court having examined the report found that the submissions made on behalf of the petitioners



was erroneous. It categorically held that the order dated 03.11.2017 was passed after hearing the parties at length.

7. **Order-47, Rule-1 of the C.P.C.** provides for review of judgment. The scope of review is limited. Review of judgment may be allowed only on three grounds, namely, (i) discovery of new and important matters of evidence, which after exercise of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time when the decree was passed or order was made, or (ii) some mistake or error apparent on the face of the record or (iii) for any other sufficient reason.

8. As far as the case in hand is concerned, I do not find any illegality in the order as none of the grounds mentioned in Order-47, Rule-1 of the C.P.C. was available to the petitioners.

9. In that view of the matter, in exercise of supervisory jurisdiction under Article 227 of the Constitution of India, I see no reason to interfere with the order impugned.

10. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.11.2019
Transmission Date	N.A.

