

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2808 of 2017

In
SECOND APPEAL No.51 of 2002

1. Dharam Raj Sharma
2. Sushil Sharma
3. Surendra Sharma, All sons of late Shyam Karan Sharma
4. Shobha Devi, daughter of late Sheo Kumari Devi
5. Goraki Sharma, son of late Shyam Karan Sharma, All residents of Mohalla Mahajan Toli No. 1 Pargana Ara Post Office Ara, Police Station Ara Town, District Bhojpur.

... .. Petitioner/s

Versus

1. Husanarah, widow of late Choudhary Anamur Rahman alias Anoo Mian
2. Naseem Anwar
3. Samsad Anwar alias Saddam
4. Nissat Anwar
- 5A. Nulu Hussaini, wife of late Ekbal Anwar alias Raju
- 5B. Mona Hussain, daughter of late Ekbal Anwar alias Raju
- 5C. Chhotu Rahman, son of late Ekbal Anwar alias Raju, All residents of Mahajan Toli No. 1, Barahiya Phatak, Jail Road, Ara, Police Station Ara Town, District Bhojpur.
6. Ismat Ara
7. Asmin Parvin
8. Isarat Bano, All daughters of late Choudhary Anamur Rahman alias Anoo Mian, All residents of Mohalla Mahajan Toli No. 1, Police Station Ara Town, Pargana Ara, District Bhojpur.
9. Parwez Akhtar
10. Imteyazur Rahman, Both sons of late Ataur Rahman
11. Sahina Akhtar
12. Rehana Khatoon, Both daughters of late Ataur Rahman
13. Choudhary Sahnawaj Akhtar, minor sons of late Ataur Rahman, under the guardianship of Khurshida Khatoon alias Ladli the mother, All residents of Mohalla Mahajan Toli No. 1 Police Station Ara Town, District Bhojpur.
14. Kalawati Devi
15. Shobha Kumari Devi, Both daughters of late Shyam Narain Sharma
16. Brij Kumari, minor daughter of late Shyam Karan Sharma under the guardianship of Shiv Kumari Devi, mother
17. Most. Usha Devi alias Sudha Devi, widow of late Suresh Sharma
18. Rahul Sharma alias Sonu



19. Krishna Sharma, Both minor sons of late Suresh Sharma, under the guardianship of Most. Usha Devi alias Sudha Devi, mother
20. Priti Sharma
21. Pinki Sharma, Both minor daughters of late Suresh Sharma under the guardianship of Most. Usha Devi alias Sudha Devi, Mother All residents of Mohalla Mahajan Toli No. 1, Ara, Police Station Ara Town, Pargana Ara, District Bhojpur.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr.Ambuj Nayan Chaubey
For the Opposite Party/s : Mr.Mohammad Sufyan

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 01-04-2019 Heard both sides.

The present MJC is filed for recalling the order dated 27.08.2014 by which two weeks' time was allowed to supplement I.A. No.6495 of 2013 and I.A. No.6496 of 2013, which were filed for substitution of legal heirs of Respondent No.5 and for deleting the name of Respondent No.16 from the memo of appeal but from perusal of Order No.19, dated 27.08.2014, Order No.22, dated 11.08.2015 and Order No.27, dated 25.07.2016, it is evident that the present petition filed by the appellants for recall of the order dated 27.08.2014 is misconceived. Even if the order dated 27.08.2014 is recalled, there shall be no effect on the two petitions bearing I.A. No.6495 of 2013 and I.A. No.6496 of 2013 as both the I.As. were not dismissed due to non-compliance of Order No.19, dated 27.08.2014 rather the appellants sought permission to withdraw I.A. No.6495 of 2013 and I.A. No.6496 of 2013 with



liberty to take appropriate steps in accordance with law for substitution of legal heirs of Respondent No.5 and deletion of name of Respondent No.16 from the memo of appeal. It further transpires that for substitution of legal heirs of Respondent No.5 and deleting the name of Respondent No.16, the appellants filed I.A. No.4560 of 2015 and I.A. No.4558 of 2015 under Chapter VI, Rule 3 of the Patna High Court Rules praying for substitution of the heirs and legal representatives of Respondent No.5 after condonation of delay and setting aside abatement, if any, but this Court vide Order No.27, dated 25.07.2016 dismissed both the I.As. bearing No.4560 of 2015 and 4558 of 2015 as I.A. No.4560 of 2015 are not maintainable. Consequently the petition for condonation of delay being I.A. No.4558 of 2015 was also dismissed.

In this view of the fact, I find that this MJC petition is de void of any merit and the same is dismissed. Accordingly, I.A. No.6925 of 2017, corresponding to I.A. No.1 of 2017, which is filed for condonation of limitation stands dismissed.

(Prabhat Kumar Jha, J)

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