

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.886 of 2018

Sushil Kumar Sinha, son of Late Laxmi Narayan Lall, resident of Shahpur Ward No.6, P.O. and P.S. Shahpur, District- Bhojpur, presently residing at Chandwa Tola, P.O. Chandwa, P.S. Ara Nawada, District- Bhojpur.

... .. Defendant 2nd set/Petitioner

Versus

1. Shobha Devi wife of Atul Chandra Sinha resident of Villagte and P.S. Shahpur, District Bhojpur, presently residing at Flat No. A-301, Sidhi Vinayak Apartment, Bariyatu, Ranchi, Jharkhand.
... .. Defendant No.4/Respondent 1st set
2. Sudhir Kumar Sinha, son of Late Laxmi Narayan Lal, resident of Village and P.S. Shahpur, District- Bhojpur presently residing at Flat No. A-302, Janki Apartment, New Chitraguptanagar, Kankarbagh, Patna-800020.
3. Satish Kumar Sinha, son of Late Laxmi Narayan Lal, resident of Village and P.S. Shahpur, District- Bhojpur, presently residing at House No.9, Road No.4, Indrapuri, P.O. Kesrinagar, District- Patna
4. Santosh Kumar Sinha, son of Late Laxmi Narayan Lal resident of Village and P.S. Shahpur, District- Bhojpur, presently residing at Shri Baleshwar Dass, Road No. 23, Shrikrishna Nagar, District- Patna-800001.
... .. Plaintiffs/Respondents 2nd set
5. Indu Devi widow of Late Siddheshwar Lal
6. Akhileshwar Prasad Sinha @ Subash son of Late Siddheshwar Lal
7. Mithileshwar Prasad Sinha @Bullet son of Late Siddheshwar Lal.
All resident of P.O. and P.S. Shahpur, District- Bhojpur.
... .. Defendant 1st set/Respondent 3rd set
8. Kamla Devi wife of Mahabir Prasad Sinha
9. Kavita Devi wife of Late Sanjiv Kumar Sinha
10. Pratik son of Late Sanjiv Kumar Sinha
11. Monu mionor daughter of Late Sanjiv Kumar Sinha under natural guardianship of her mother Kavita Devi (respondent no.9 herein)
All resident of P.O. & P.S. Shahpur, District Bhojpur, presently residing at Flat No. 402, Shivam Apartment, Gandhinagar, Kankarbagh, Patna.
12. Krishna Ojha, son of Manbodh Ojha, resident of village Sahjauli, P.O. Sahjauli, P.S. Shahpur, District- Bhojpur
13. Shambhu Saran Mishra, son of Late Sarju Mishra, resident of Village Karnamepur, P.S. Shahpur, District- Bhojpur
14. Binod Kumar Tiwary son of Gobind Tiwary, resident of Village & P.O. Shahpur, P.S. Shahpur, District- Bhojpur.

... .. Defendant 3rd set/Respondent 4th set

Appearance :

For the Appellant/s : None.
For the Respondent/s : Mr.Dr. Alok Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 20-09-2019



Despite repeated calls, no one appears for the petitioner. Mr. K. N. Choubey, learned senior advocate appears on behalf of the respondent no.1.

2. Perused the materials on record.

3. This application under Article 227 of the Constitution of India has been filed by the petitioner challenging the judgment dated 14.03.2018 passed by the learned Sub-Judge, Jagdishpur, Bhojpur in Title Suit No. 661 of 2010 whereby the petition dated 12.03.2018 filed by the respondent 1st set under Order XII, Rule 6 read with Section 151 of the Code of Civil Procedure (for short 'CPC') has been allowed.

4. Order XII, Rule 6(1) of the CPC provides that where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

5. Sub-rule (2) of aforesaid Order XII, Rule 6 of the CPC provides that whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the



judgment and the decree shall bear the date on which the judgment was pronounced.

6. The provisions prescribed under Order XII, Rule 6(2) of the CPC are identical to Order XX, Rule 7 of the CPC. The judgment in terms of Order XII, Rule 6 of the CPC can be challenged only by way of an appeal and not by way of an application filed under Article 227 of the Constitution of India.

7. In that view of the matter, the application is dismissed as not maintainable.

8. The interim order dated 10.08.2018 stands vacated.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23.09.2019
Transmission Date	

