

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1636 of 2018

1. Ram Ratan Singh son of Surya Shekhar Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
2. Anil Singh @ Chunchun Singh son of Surya Shekhar Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.

... .. Petitioners

Versus

1. Ram Balak Singh son of Ugandeo Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
2. Shiv Balak Singh son of Ugandeo Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
3. Shyam Kishore Singh son of Ugandeo Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
4. Nunu Devi D/o Late Gauri Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
5. Most. Panch Devi W/o late Tuntun Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
6. Ram Pravesh Singh son of late Tuntun Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
7. Shanti Kumari daughter of late Tuntun Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
8. Shiv Kumari daughter of Late Tuntun Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
9. Ram Kumari Devi Daughter of late Tuntun Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
10. Ram Sewak Singh son of late Gori Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
11. Ram Udgar Singh son of late Tuntun Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
12. Most. Anita Devi wife of late Ramadhar Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
13. Ram Kalyan Singh minor son of late Ramadhar Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
14. Dwarika Singh minor son of late Ramadhar Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
15. Ram Lagan Singh son of late Kari Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
16. Anandi Singh son of late Kari Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
17. Ramesh Singh son of late Krishnadeo Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.



18. Ruby Kumari D/o Late Krishnadeo Singh, W/o Rajan Kumar resident of Village- Pahsara, Police Station- Nawkothi, District- Begusarai.
19. Sunita Kumari D/o Late Krishnadeo Singh, W/o- Dipak Kumar resident of Village- Pahsara, Police Station- Nawkothi, District- Begusarai.
20. Anita Kumar D/o- late Krishnadeo Singh, W/o- Rajiv Kumar Resident of Village- Gadhpura, P.O.- Gadhpura, P.S.- Gadhpura, District- Begusarai.
21. Budhu Singh son of late Brahmdeo Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
22. Most. Bachchi Devi wife of late Ramjee Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
23. Ramashray Singh son of late Ramjee Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
24. Ramanuj Singh son of late Ramjee Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
25. Rajiv Singh son of late Ramjee Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
26. Sarojni Devi daughter of late Ramjee Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
27. Rukmini Devi daughter of late Ramjee Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
28. Sulekha Devi daughter of late Ramjee Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
29. Suman Devi daughter of late Ramjee Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
30. Bhango Singh son of late Ramnath Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
31. Bablu Singh son of late Ramnath Singh resident of Village- Khamhar, P.O.- Khamhar, Police Station- Muffasil, District- Begusarai.
32. Most. Ramkumari Devi wife of late Rajendra Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
33. Amit Kumar Singh son of late Rajendra Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
34. Sujit Kumar Singh son of late Rajendra Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
35. Gopal Kumar Singh son of late Rajendra Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
36. Madhaw Kumar Singh son of late Rajendra Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
37. Naveen Kumar son of late Achchelal Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
38. Most. Dairani Devi D/o late Singheshwar Singh, W/o- Ram Ram Badan Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.



39. Raj Kumari Devi D/o late Laxmi Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
40. Bachcha Singh son of Baijnath Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
41. Janki Devi wife of late Raksha Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
42. Baubati Devi D/o- Bishundeo Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
43. Shanti Devi daughter of late Kameshwar Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
44. Kranti Devi daughter of late Kameshwar Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
45. Arbind Kumar son of late Kameshwar Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
46. Naveen Kumar son of late Kameshwar Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
47. Subodh Singh son of late Chintamani Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
48. Binod Singh son of late Chintamani Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
49. Purushottam Singh son of late Chintamani Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
50. Sanjay Singh son of late Chintamani Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
51. Viveka Singh son of late Chintamani Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
52. Shambhu Singh son of late Chintamani Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
53. Lakri Singh son of late Chintamani Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
54. Niranjana Singh son of late Chintamani Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
55. Krikant Singh son of late Kameshwar Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
56. Baijnath Singh son of late Laxmi Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
57. Most. Sunita Devi wife of late Shiv Nandan Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
58. Smati Kumari daughter of late Shiv Nandan Singh, wife of Prabhat Ranjan resident of Village- Sarvodaya Nagar, Police Station- Town, District- Begusarai.
59. Gopal Singh son of late Ram Narayan Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.



60. Ramanuj Singh son of late Ram Narayan Singh resident of Village-Khamhar, Police Station- Muffasil, District- Begusarai.
61. Most. Pratik Devi wife of late Bhagirath Singh resident of Village-Khamhar, Police Station- Muffasil, District- Begusarai.
62. Manoj Kumar Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
63. Manu Kumar Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
64. Nutan Kumari daughter of late Bhagirath Singh, wife of Satish Singh resident of Village- Dhakjari, Police Station- Bachhwara, District- Begusarai.
65. Durga Kumari daughter of late Bhagirath Singh, wife of Nand Kumar Singh resident of Village- Bhariwar, Police Station- Muffasil, District- Begusarai.
66. Munchun Kumari daughter of late Bhagirath Singh, wife of Ranjan Kumar resident of Village- Naugachhiya, Police Station- Naugachhiya, District- Bhagalpur.
67. Sogarath Singh son of Late Ram Bahadur Singh resident of Village-Khamhar, Police Station- Muffasil, District- Begusarai.
68. Shankar Singh son of late Ram Bahadur Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
69. Mahendra Singh son of late Ram Bahadur Singh resident of Village-Khamhar, Police Station- Muffasil, District- Begusarai.
70. Bachcha Singh son of late Ram Bahadur Singh resident of Village-Khamhar, Police Station- Muffasil, District- Begusarai.
71. Kedar Singh son of late Bhola singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
72. Ashok Kumar Singh son of late Bhola Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
73. Upendra Singh son of late Jago Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
74. Rajendra Singh son of late Jago Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
75. Anil Singh son of late Jangal Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
76. Bablu Singh son of late Ram Chandra Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
77. Rupesh Kumar son of late Ram Chandra Singh resident of Village-Khamhar, Police Station- Muffasil, District- Begusarai.
78. Most. Dharma Devi wife of late Pappu Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
79. Bimal Singh son of late Ram Balak Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
80. Sudhir Kumar Singh son of late Ram Balak Singh resident of Village-Khamhar, Police Station- Muffasil, District- Begusarai.



81. Kumkum Devi daughter of late Ram Balak Singh, wife of Nawal Singh resident of Village- Pahasara, Police Station- Nwkothe, District- Begusarai.
82. Pankaj Devi daughter of late Ram Balak Singh, wife of Gopal Singh resident of Village- Walipur, Police Station- Pipariya, Lakhisarai.
83. Rina Devi daughter of late Ram Balak Singh, wife of Ram Babu Singh resident of Village- Makashur, Police Station- Cheriya Bariyarpur, District- Begusarai.
84. Sanjiva Devi daughter of late Satya Narayan Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
85. Rinku Devi daughter of late Satya Narayan Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
86. Seero Singh son of late Medni Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
87. Sheo Shankar Singh son of late Deo Narayan Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
88. Daya Shankar Singh @ Chunchun Singh son of late Deo Narayan Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
89. Pankaj Kumar Singh son of late Deo Narayan Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
90. Vina Devi D/o Late Deo Narayan Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
91. Nitu Devi d/o late Deo Narayan Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
92. Manisha Devi daughter-in- law of late Deo Narayan Singh, wife of Late Binod Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
93. Keshav Kumar son of late Binod Singh, grand son of late Deo Narayan Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
94. Ram Narayan Singh son of late Dasrath Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
95. Hukum Narayan Singh son of late Dasrath Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
96. Shri Narayan Singh son of late Dasrath Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
97. Anita Kumari daughter of late Chalitar Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
98. Sunita Singh daughter of late Chalitar Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.
99. Shri Kishun Singh son of late Rabbi Singh resident of Village- Khamhar, Police Station- Muffasil, District- Begusarai.

... .. Respondents



Appearance :

For the Appellant/s : Mr.Narendra Kumar
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 27-09-2019

Heard Mr. Jai Prakash Singh, learned advocate appearing for the petitioners.

2. This application under Article 227 of the Constitution of India has been filed by the petitioners for quashing the order dated 04.04.2018 passed by the learned Sub-Judge-VII, Begusarai in Execution Case No. 03 of 2009 whereby he has rejected the petition dated 05.12.2017 filed by the petitioners under Order XXI, Rules 97 and 99 and Section 151 of the Code of Civil Procedure (for short 'CPC') for stay of the proceedings of Execution Case No. 03 of 2009 till disposal of Title Suit No. 22 of 2011 pending before the learned Sub-Judge-I, Begusarai for declaration of judgment and decree passed in Title Suit No. 42 of 1961 as void, illegal and not binding on the petitioners.

3. Learned counsel appearing for the petitioners submitted that the trial court has failed to appreciate the ambit and scope of Order XXI, Rule 97 of the CPC. It has rejected the application filed by the petitioners vide impugned order dated 04.04.2018 without considering the facts and circumstances of the case. According to him, if the order impugned is allowed to be



sustained, the same would cause great prejudice and irreparable loss to the petitioners.

4. Having heard learned counsel for the petitioners and perused the order impugned dated 04.04.2018, I find that prior to the application dated 05.12.2017, the petitioners had filed another application under Order XXI, Rules 97 and 99 and Section 151 of the CPC on 07.10.2017, on the same ground, as raised in the application dated 05.12.2017. The said application was rejected by the trial court. The said order by which the earlier application of the petitioners was rejected has not been challenged before any court. Keeping in mind the rejection of the earlier application, the trial court has rejected the application of the petitioners vide the order impugned.

5. In the opinion of this Court, no illegality can be found with the order impugned as a party cannot be allowed to re-agitate the same matter again and again at a subsequent stage of the same proceeding.

6. In *Satyadhyan Ghosal Vs. Deorajin Debi*, since reported in AIR 1960 SC 941, the Supreme Court has held as under :-

“7. The principle of res judicata is based on the need of giving a finality to judicial decisions. What it says is that once a res is judicata, it shall



not be adjudged again. Primarily it applies as between past litigation and future litigation. When a matter — whether on a question of fact or a question of law — has been decided between two parties in one suit or proceeding and the decision is final, either because no appeal was taken to a higher court or because the appeal was dismissed, or no appeal lies, neither party will be allowed in a future suit or proceeding between the same parties to canvass the matter again. This principle of res judicata is embodied in relation to suits in Section 11 of the Code of Civil Procedure; but even where Section 11 does not apply, the principle of res judicata has been applied by courts for the purpose of achieving finality in litigation. The result of this is that the original court as well as any higher court must in any future litigation proceed on the basis that the previous decision was correct.

8. The principle of res judicata applies also as between two stages in the same litigation to this extent that a court, whether the trial court or a higher court having at an earlier stage decided a matter in one way will not allow the parties to re-agitate the matter again at a subsequent stage of the same proceedings. Does this however mean that because at an earlier stage of the litigation a court has decided an interlocutory matter in one way and no appeal has been taken



therefrom or no appeal did lie, a higher court cannot at a later stage of the same litigation consider the matter again?”

7. Regard being had to the ratio laid down by the Supreme Court in *Satyadhyan Ghosal* (Supra) as also the facts and circumstances under which the order impugned has been passed by the trial court, I see no reason to interfere with the same in exercise of supervisory jurisdiction under Article 227 of the Constitution of India, as it is neither illegal nor perverse nor without jurisdiction.

8. The application is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	01-10-2019
Transmission Date	

