

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3579 of 2016

In
SECOND APPEAL No.194 of 2009

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Baqruddin @ Baqridan, Son of late Wahid Mian, resident of Village- Bal,
P.S.- Rasolpur, District- Saran.

... .. Appellant--- Petitioner/s

Versus

1. Md. Usman
2. Md. Lukman, both sons of Late Wahid Mian.
3. Shahadat Hussain, S/o Late Abideen Mian.
4. Bibi Talbun, Wife of Md. Lukman, Nos. 1 to 4 resident of Village- Bal, P.S. Rasoolpur, District- Saran.
5. Najbun Khatoon, d/o Late Wahid Mian Wife of Rustam Mian, r/o Village- Mohammadpur, P.S. Manjhi, District- Saran.
6. Zaibun Khatoon, D/o late Wahid Mian, Wife of Ali Mohammad, r/o Village- Nadaowan, P.S. Baniyapur, District- Saran.

... .. Respondents---Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Mohammed Abu Haidar
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 17-09-2020 At the outset, it is to be clarified that in order dated 20.11.2017 in its last line, the number of M.J.C. has wrongly been mentioned as MJC No.3759 of 2016, which should be corrected and read as MJC No.3579 of 2016.

Heard Mr. Mohammed Abu Haidar, learned counsel for the petitioner.

The petitioner filed this petition for recalling/modifying the order dated 06.01.2015, passed by Hon'ble Mr. Justice V. Nath (as His Lordship then was) in S.A. No.194 of 2009 whereby due to non-compliance of the peremptory order dated 03.12.2014, the second appeal was dismissed.



Learned counsel for the petitioner submits that the appeal was admitted on 27.04.2010. During pendency of the appeal, I.A. No.3626 of 2013 was filed under Order 39, Rules 1 and 2 of the CPC and notices were issued on 01.08.2013. In the meantime, respondent no.5 died and I.A. No.14326 of 2014 was filed to substitute the legal heirs and representatives of the deceased respondent no.5 but the same was dismissed for non-compliance of the order. Accordingly, MJC No.4902 of 2014 was filed on 23.12.2014. When MJC No.4902 of 2014 was placed before the Hon'ble Judge, the petitioner came to know about the order dated 06.01.2015, passed in S.A. No.194 of 2009, therefore, it appears that true facts were not placed in the notice of the court.

Taking into consideration the facts aforesaid, the order dated 06.01.2015, passed in S.A. No.194 of 2009 is recalled and S.A. No.194 of 2009 is restored to its original file.

This M.J.C. petition is allowed accordingly.

List S.A. No.194 of 2009 along with M.J.C. No.4902 of 2014 on 19.10.2020 under the appropriate heading.

(Prabhat Kumar Jha, J)

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