

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1802 of 2019**

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Smt. Shashi Prabha Wife of Satish Chandra Prasad Resident of Village-
Bariyarpur (Basti), Police Station- Bariyarpur, District- Munger.

... .. Defendant 2nd Set/Petitioner

Versus

1. Shankar Choudhary Son of Late Narayan Choudhary Resident of Village-
Gandhipur (Bariyarpur), Police Station- Bariyarpur, District- Munger,
presently residing at Q. No. 1CR/84 Old, Thana Colony, Post- Bhurkunda,
District- Hazaribagh (Jharkhand).

..... Plaintiff/ Respondent

2. Subodh Kumar Son of Late Narayan Choudhary Resident of Village-
Gandhipur (Bariyarpur), Police Station- Bariyarpur, District- Munger,
presently residing at Mohalla- Vidyapuri, Police Station- Jhumri Tilaiya,
District- Kodarma (Jharkhand).
3. Binod Kumar Son of Late Narayan Choudhary Resident of Village-
Gandhipur (Bariyarpur), Police Station- Bariyarpur, District- Munger,
presently residing at Mohalla- Vidyapuri, Police Station- Jhumri Tilaiya,
District- Kodarma (Jharkhand).

.... Defendant 1st Set/Respondent

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar, Advocate

For the Respondent/s: Mr.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 21-01-2020

The present application has been filed “for quashing the order dated 05.04.2019 passed in Title Suit No. 48 of 2006 by the learned Sub-Judge, VI, Munger whereby the petition filed under Section 151 of the Code of Civil Procedure by the petitioner, for passing order afresh in Title Suit No. 48 of 2006, in light of the order dated 07.09.2016, passed by this Hon’ble Court in First Appeal No. 57



of 2013 on the basis of the compromise entered in between the parties vide I.A. No. 1591 of 2016.”

2. Learned counsel for the defendant 2nd set/petitioner, after some arguments, fairly accepts that the application dated 02.02.2017 (Annexure-5) filed in the Court of Sub-Judge-IV, Munger in Title Suit No. 48 of 2006 with a prayer for passing a fresh order in the light of the order dated 07.09.2016 passed by the Hon’ble High Court in First Appeal No. 57 of 2013, was itself not in line with the provisions of the Civil Procedure Code, in view of Order XLI Rule 33, 36 and 37 of the Civil Procedure Code.

3. The petition accordingly stands disposed of with the observation that the defendant 2nd set/petitioner shall be at liberty to take appropriate steps in the light of the provisions of Order XLI of the Civil Procedure Code.

4. It is made clear that in such case, the concerned court would have regard to the present proceeding being pursued by the defendant 2nd set/petitioner, while considering any plea raised for condonation of delay.

(Vikash Jain, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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