

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.206 of 2022

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Indradeo Choudhary Son of Late Kamleshwari Choudhary of Village Arariya,
P.O.Maraiya, P.S. Parbatta, District-Khagaria.

... .. Petitioner/s

Versus

1. Smt. Kaikai Devi Wife of Sri Vakildeo Yadav Resident of Vilalge Kareta,
P.O. and P.S. Gogari, District Khagaria
2. Most. Abhilasha Devi Wife of Late Pintu Choudhary, Resident of Village
Arariya, P.O. Maraiya, P.S. Parbatta, District Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dronacharya, Sr Adv. Mr. Arghesh Kumar, Adv.
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 29-06-2022 Heard Mr. Dronacharya, learned senior counsel for
the petitioner.

The petitioner is aggrieved by order dated 18.02.2022
passed in Civil Misc. Appeal No. 12/2017 by learned Additional
Sessions Judge- 3rd , Khagaria whereby the order dated
21.08.2017 passed in Misc. Case No. 12/2013 and the *ex parte*
decree passed in Title Suit No. 121/2010 has been set aside and
the Title Suit No. 121/2010 has been restored to its original
file on payment of cost of Rs. 5000/-.

Learned senior counsel for the petitioner referring to
impugned order submits that the learned lower appellate court in
para-4 of the order has come to the conclusion that the



defendants/respondents 1st Set had come to know about the pendency of the suit and despite the specific finding has allowed the Misc. Case filed by Respondent 1st party.

I have heard learned counsel for the petitioner and gone through the impugned order. It appears from para-6 of the impugned order that the court below after having gone through the material on record has come to the conclusion that due to wrong address on the summon, the same could not be served upon the appellant/defendant No.1 and without service of summon, *ex parte* decree has been passed and accordingly, in the interest of justice, he has set aside the *ex parte* decree and has restored the suit to its original file.

I do not find any material irregularity and the jurisdictional error in the order impugned, accordingly this application is rejected.

(Anil Kumar Sinha, J)

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