

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.641 of 2018

Ashok Kumar Sharma @ Ashok Sharma son of Pramod Chandra Sharma,
resident of Village- Kelapur, Police Station and Post Office- Kajraili, District-
Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sahdeo Sah, son of Late Pairu Sah
3. Shanti Devi, wife of Nakul Sah
4. Pappu Sah, son of Late Pairu Sah
5. Nunu Kumar @ Rohit Kumar Sah, son of Late Nakul Sah
6. Vikiya Kumari, daughter of Late Nakul Sah
7. Chamak Lal Sah, son of Late Sharban Sah
8. Dukhan Sah, son of Late Sarban Sah
9. Pinki Devi, daughter of Late Sharban Sah All resident of Village- Kelapur,
Police Station and Post- Kajraili, District- Bhagalpur.
10. Durgi sah, son of Late Naurangi Sah, resident of Makashpur, Police Station-
Jagdishpur, District- Bhagalpur.
11. Suman Devi, wife of Arjun Sah, resident f Village- Khariya, Police Station
and District- Munger.
12. Pramod Chandra Sharma, son of Late Parbati Charan Sharma
13. Binod Kumar Sharma, son of Pramod Chandra Sharma,
14. Bishwanath Goswami, son of Late Laxmi Narayan Goswami
15. Khogen Nath Goswami
16. Salendra Nath Goswami Both sons of Chhedi Narayan Goswami All
residents of Village- Kelapur, Police Station- Kajraili, District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ajoy Kumar Chakraborty
For the State : Mr. Birendra Prsad Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

7 06-12-2022 Heard learned Counsel for the petitioner and the State.

I. A. No. 01 of 2022 has been filed on behalf of the
petitioner stating therein that during the pendency of this
application, the respondent no. 9, namely, Pinki Devi, has died,



leaving behind no surviving legal heir, in the month of October, 2022. Accordingly, the submission is for deleting the name of respondent no. 9 from the array of the respondents.

Taking into consideration the nature of prayer, I. A. No. 01 of 2022 is allowed and the name of the respondent no. 9, Pinki Devi, is deleted from the array of the respondents.

The Office is directed to make necessary correction in the software of this Court.

A jointness affidavit has been filed on behalf of the petitioner stating therein that the notices issued upon respondent nos.4, 5, 7 and 10 have been received by respondent no. 5 and all of them are living in jointness at the same residential address and also enjoying their food in the same mess.

Accordingly, the notices issued upon respondent nos. 4, 7 and 10 are treated to have been validly served.

Despite valid service of notices upon the private respondents, no one is appearing on their behalf.

The petitioner is the plaintiff in Title Suit No. 51 of 1993 seeking declaration of right, title, interest and possession over Schedule-A property mentioned in the plaint and further for correction of the entry made in the survey khatian.

Learned Counsel for the petitioner submits that for the



first time, the evidence of the plaintiff started on 11.09.2017. According to the petitioner, on 11.09.2017, shradh ceremony was fixed in his family, therefore, a time petition was filed on behalf of the petitioner-plaintiff for production of witnesses. However, the time petition was rejected and the evidence of the plaintiff was closed. Subsequently, on 13.11.2017, a petition was filed by the petitioner for recall of the order, dated 11.09.2017, but the same was also rejected by the impugned order.

From perusal of the impugned order, it transpires that the issues were framed in the suit on 20.04.1999, but since then no witness was produced by the petitioner-plaintiff.

However, by way of last opportunity and in the interest of justice, the petitioner-plaintiff is directed to examine all his witnesses within a period of two months from today positively, failing which the evidence of the plaintiff-petitioner shall be closed by the learned Trial Court itself.

In the result, this application is allowed and the orders, dated 11.09.2017 and 15.01.2018, passed by learned Munsif-II, Bhagalpur, are set aside.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

U	√		
---	---	--	--

