

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.532 of 2018

Kanhaiya Prasad Son of Late Ram Charitar Rai Resident of Village- Brijbani South, Govindpur Tiwari Tola, Police Station- Jitna, Post Office- Ghorasahan, District- East Champaran.

... .. Petitioner/s

Versus

1. Shanti Devi Daughter of Late Tapeswar Rai, Wife of Pankaj Kumar Yadav @ Bhola Yadav Resident of Village- Kharki Kuwa, Police Station- Chakia, District- East Champaran.
2. Gangajali Devi Daughter of Tapeswar Rai, Wife of Baldeo Prasad Yadav Resident of Village- Nimuie, P.O. and P.S.- Sugauli, District- East Champaran.
3. Vinod Kumar Son of Satyadev Prasad Yadav Resident of Village- Bisunpurwa, District- East Champaran.
4. Vijay Kumar Son of Satyadev Prasad Yadav Resident of Village- Bisunpurwa, District- East Champaran.
5. Bhushan Kumar Son of Satyadev Prasad Yadav Resident of Village- Bisunpurwa, District- East Champaran.
6. Neku Kumar Son of Satyadev Prasad Yadav Resident of Village- Bisunpurwa, District- East Champaran.
7. Brajeshwar Kumar Son of Satyadev Prasad Yadav Resident of Village- Bisunpurwa, District- East Champaran.
8. Mosammmat Phulmati Devi Daughter of Late Sanchit Vaishya Resident of Village- Teenkoni, Post Office and Police Station- Darwa, District- East Champaran.
9. Dharamdeo Vaishya Son of Late Ramlochan Vaishya Resident of Village- Teenkoni, Post Office and Police Station- Darwa, District- East Champaran.
10. Shivchandra Vaishya Son of Late Ramlochan Vaishya Resident of Village- Teenkoni, Post Office and Police Station- Darwa, District- East Champaran.
11. Pramila Devi Daughter of Lakhindar Rai Resident of Village- Karkanwa, Post Office and Police Station- Aadapur, District- East Champaran.
12. Shri Manohar Prasad Yadav Son of Bundela Prasad Yadav Resident of Village- Kunkuniya, Post Office and Police Station- Aadapur, District- East Champaran.
13. Shri Arjun Kumar Son of Bundela Prasad Yadav Resident of Village- Kunkuniya, Post Office and Police Station- Aadapur, District- East Champaran.
14. Mosammat Kavita Devi Daughter of Late Jitendra Rai Resident of Village- Karkenwa, Post Office and Police Station- Aadapur, District- East Champaran.
15. Babulal Rai Son of Late Chanan Rai Resident of Village- Karkenwa, Post Office and Police Station- Aadapur, District- East Champaran.
16. Kamleshwar Singh Son of Late Lalbabu Singh Resident of Village-



- Karkenwa, Post Office and Police Station- Aadapur, District- East Champaran.
17. Subhash Chandra Singh Son of Late Rajendra Singh Resident of Village- Karkenwa, Post Office and Police Station- Aadapur, District- East Champaran.
 18. Ranju Devi Daughter of Suresh Yadav Resident of Village- Karkenwa, Post Office and Police Station- Aadapur, District- East Champaran.
 19. Mosammat Adhiya Devi Daughter of Late Jodha Rai Resident of Village- Karkenwa, Post Office and Police Station- Aadapur, District- East Champaran.
 20. Gena Devi Daughter of Jagannath Sah Resident of Village- Karkenwa, Post Office and Police Station- Aadapur, District- East Champaran.
 21. Virendra Prasad Yadav Son of Late Kashi Rai Resident of Village- Karkenwa, Post Office and Police Station- Aadapur, District- East Champaran.
 22. Satyadev Rai Son of Late Shivnath Rai Resident of Village- Karkenwa, Post Office and Police Station- Aadapur, District- East Champaran.
 23. Babuni Devi Daughter of Shri Sitaram Singh Resident of Village- Karkenwa, Post Office and Police Station- Aadapur, District- East Champaran.
 24. Bhikhari Yadav Son of Late Jagdish Yadav Resident of Village- Karkenwa, Post Office and Police Station- Aadapur, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar
For the Respondent/s : Mr. Santosh Bharti, Adv., Anu Priyadarshni, Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 20-09-2022 By the impugned order dated 5-1-2018 the respondent no. 8 to 24 have been impleaded as party in a probate case filed by the petitioner bearing Probate Case No. 28 / 2010.

Mr. Ranjeet Kumar, learned counsel for the petitioner submits that by the impugned order strangers have been impleaded as party, which is not permissible in view of various judgments of the Hon'ble Supreme Court and this Court. He



further submits that the order impugned has been passed in absence of the petitioner inasmuch due to some unavoidable circumstances the petitioner's counsel could not appear before the concerned court on 16-12-2017 as well as on the date of passing of the impugned order on 05/01/2018.

The contention is that the probate-petitioner was not heard as well as the objector- defendants were also not heard by the concerned court and the impugned order has been passed merely on the basis of argument advanced by the intervener - petitioner.

In view of the fact that neither the petitioner nor the defendants were present and argued before the concerned court and the impugned order has been passed only after hearing the intervener accordingly the impugned order is hereby set aside and the matter is remitted back to the concerned court i.e. Fast Track Court No. 1 , East Champaran, Motihari to pass fresh order on the petition filed by the intervener after hearing all the parties.

This civil miscellaneous application is disposed of.

praful/-

(Anil Kumar Sinha, J)

U			
---	--	--	--

