

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1386 of 2018

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Umesh Mandal Son of Late Radhey Mandal, Resident of Village-Satghara,
P.O.-Habibpur, P.s.-Sahjadpur, Distirct-Bhagalpur.

... .. Petitioner/s

Versus

1. Saryug Mandal and Ors Son of Pyare Mandal, Resident of Village-Satghara,
P.s.-Habibpur, P.s.-Sahjadpur, District-Bhagalpur.
2. Binod Mandal, Son of Late Madho Mandal, Resident of Village-Satghara,
P.s.-Habibpur, P.s.-Sahjadpur, District-Bhagalpur.
3. Bilash Mandal, Son of Late Madho Mandal, Resident of Village-Satghara,
P.s.-Habibpur, P.s.-Sahjadpur, District-Bhagalpur.
4. Dinesh Mandal, Son of Late Radhey Mandal Resident of Village-Satghara,
P.S.-Habibpur, P.s.-Sahjadpur, District-Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Adv
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 22-09-2022 Heard learned counsel for the petitioner.

2. The petitioner/defendant No. 1(a) is aggrieved by an order dated 18.07.2018 passed in Title Suit No. 296/2012 by learned Sub Judge-VIII, Bhagalpur whereby legal heirs of defendant no. 1 who died on 31.05.2016 have been substituted.

3. Learned counsel for the petitioner submits that the substitution petition was filed after 90 days by the plaintiff/respondent. He further submits that the substitution petition was filed in the wrong provision of law.

4. I have heard learned counsel for the petitioner and perused the impugned order. From perusal of the same, it



appears that earlier just after the death of defendant no.1, a petition was filed by the plaintiff on 19.11.2016 for substitution along with prayer for condonation of delay. The trial court has come to the conclusion that there was some delay in filing of substitution but has allowed the substitution upon payment of cost, meaning thereby, the delay has been condoned by the learned trial court and heirs of defendant no.1 have been substituted. Since substitution petition has been filed under Order 22 Rule 4 and 9 read with under Section 151 CPC and the court exercising its jurisdiction, condoned the delay in filing the substitution petition, I do not find any infirmity in the impugned order. Accordingly, this application is rejected.

(Anil Kumar Sinha, J)

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