

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.852 of 1972

1. Bibi Hasina, daughter of Sk. Zamir, wife of Sk. Abdul Wahid, resident of village- Pakri P.O- Jogia, P.S.- Ram Nagar, District- Champaran. **Dead**
- 1.1. Anwarul Hasan, S/o Late Bibi Hasina, resident of village- Pakri, P.O.- Jogiya, P.S.- Ramnagar, District- Champaran.
2. Bibi Hasiat Bandi, daughter of Sk. Zamir, resident of village- Mahuawa, PO & PS-Shikarpur, District- Champaran. **Dead**
- 2.1. Isheteyaque Ahmad, son of Late Bibi Hasiat Bandi, resident of village- Mahuawa, P.O. and P.S.- Shikarpur, District- Champaran.
- 2.2. Shafira Khatoon, daughter of Late Bibi Hasiat Bandi, resident of village- Mahuawa, P.O. and P.S.- Shikarpur, District- Champaran.
- 2.3. Kuraisha Khatoon, daughter of Late Bibi Hasiat Bandi, resident of village- Mahuawa, P.O. and P.S.- Shikarpur, District- Champaran.
- 2.4. Savra Khatoon, D/o Late Bibi Hasiat Bandi, resident of village- Mahuawa, P.O. and P.S.- Shikarpur, District- Champaran.
3. Bibi Mobina Khatoon, daughter of Sk. Zamir, wife of Sk. Mojibullah, resident of village- Sabeya, PO- Jogia, P.S.- Ram Nagar, Tappa Deoraj, Pragana – Majhowa, District- Champaran. **Dead**
- 3.1. Md. Nurulain, son of Late Bibi Mobina Khatoon, resident of village- Sabeya, P.O. Jogiya, P.S.- Ramnagar, Tappa Deoraj, Pargana- Majhowa, District- Champaran.
- 3.2. Gulsan Begum, daughter of Late Bibi Mobina Khatoon, resident of village- Sabeya, P.O. Jogiya, P.S.- Ramnagar, Tappa Deoraj, Pargana- Majhowa, District- Champaran.
- 3.3. Asrunnisa, d/o Late Bibi Mobina Khatoon, resident of village- Sabeya, P.O. Jogiya, P.S.- Ramnagar, Tappa Deoraj, Pargana- Majhowa, District- Champaran.

... .. Appellant/s

Versus

1. Abdul Barkat, resident of Village- Sabeya, P.O.- Jogiya, P.S.- Ramnagar, District- West Champaran. **Dead**
- 1.1. Md. Idris, son of Late Abdul Barkat, resident of Village- Sabeya, P.O.- Jogiya, P.S.- Ramnagar, District- West Champaran.
- 1.2. Emamul Hasan, son of Late Abdul Barkat, resident of Village- Sabeya, P.O.- Jogiya, P.S.- Ramnagar, District- West Champaran.
- 1.3. Anjarul Haque, son of Late Abdul Barkat, resident of Village- Sabeya, P.O.- Jogiya, P.S.- Ramnagar, District- West Champaran.
- 1.4. Quaimunisa, daughter of Late Abdul Barkat, resident of Village- Sabeya, P.O.- Jogiya, P.S.- Ramnagar, District- West Champaran.
- 1.5. Guxunnisa, daughter of Late Abdul Barkat, resident of Village- Sabeya, P.O.- Jogiya, P.S.- Ramnagar, District- West Champaran.
2. Sk. Abdul Hai, son of late Sk.Reyasat, resident of Sabeya, P.O.- Gogiya, P.S.- Ramnagar, District- Champaran. **Dead**
- 2.1. Sk. Majid Alam, son of Late Sk. Abdul Hai, resident of Sabeya, P.O.-



Gogiya, P.S.- Ramnagar, District- Champaran.

- 2.2. Arsul Mujid, son of Late Sk. Abdul Hai, resident of Sabeya, P.O.- Gogia, P.S.- Ramnagar, District- Champaran.
- 2.3. Md. Illias, son of Late Sk. Abdul Hai, resident of Sabeya, P.O.- Gogia, P.S.- Ramnagar, District- Champaran.
- 2.4. Kamlesh Khatoon, wife of Taukia Ahmad, resident of Telpur, PO- Telpur, PS- Lauriya via Ramnagar, District- East Champaran
- 2.5. Samsul Nisha, wife of Ekramuddin, resident of village & PO- Bagahi, PS- Lauriya, District- West Champaran.
- 2.6. Sadrun Nisha, wife of Md. Bari, resident of village & PO- Khajuriya, PS- Narkatiaganj, District- West Champaran.
3. Bibi Zahirun Nisa, daughter of Late Sk. Reyasat, resident of village- Sabeya, P.O.- Jogiya, P.S.- Ramnagar, District- Champaran. **Dead. Substitution petition rejected vide order no. 37 dated 17.02.1998**
4. Sk. Sirajul Haque, Son of Late Sk. Mohd. Ishaque, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran. **Dead**
- 4.1. Sk. Anwarul, son of Sk. Sirajul Haque, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
- 4.2. Sk. Abulais, son of Sk. Sirajul Haque, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
- 4.3. Rajba Khatoon, daughter of Sk. Sirajul Haque, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
- 4.4. Sajba Khatoon, daughter of Sk. Sirajul Haque, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
- 4.5. Rahima Khatoon, daughter of Sk. Sirajul Haque, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
5. Sk. Samshul Haque, Son of Late Sk. Ishaque, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
6. Bibi Husun Bandi, daughter of Late Sk. Md. Ishaque, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran. **Dead. Substitution petition rejected vide order no. 37 dated 17.02.1998**
7. Bibi Qulshum, daughter of Sk. Md. Ishaque, wife of Sk. Mohd. Siddique, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran. **Dead. Substitution petition rejected vide order no. 37 dated 17.02.1998**
8. Bibi Hasina, wife of Late Sk. Md. Farooque, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
9. Sk. Md. Sabir, son of Late Sk. Md. Farooque, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
10. Bibi Aklima, daughter of Late Sk. Md. Farooque, wife of Sk. Fazlur Rahman, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
11. Bibi Taslima, daughter of Late Md. Farooque, wife of Mohd. Hanif, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
12. Bibi Zaibun Nisa, daughter of Late Sk. Md. Farooque, resident of Village



and P.O.- Telpur, P.S.- Lauriya, District- Champaran.

13. Bibi Tahrin Nisa, daughter of Late Sk. Md. Farooque, wife of Sk. Mohd. Khalil, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
14. Bibi Bai Taimun Nisa, daughter of Late Sk. Md. Farooque, wife of Sk. Anwarul Haque, resident of Village and P.O.- Telpur, P.S.- Lauriya, District- Champaran.
15. Bibi Shabid Bandi, wife of Late Sk. Husuddin, resident of Village and P.O.- Sabeya, P.S.- Ramnagar, District- Champaran.
16. Md. Umar, son of Sk. Sidique, resident of Village- Manguraha, P.S.- Ramnagar, P.O.- Sabeya, District- Champaran. **Dead. Substitution petition rejected vide order no. 37 dated 17.02.1998**
17. Sk. Sukhi @ Md. Hasan, son of not known, resident of Village- Talpur, P.O. and P.S.- Lauriya, District- Champaran. **Dead**
- 17.1 Ali Imam, son of Sk. Sukhi @ Md. Hasan.
- 17.2 Gausul Azam, son of Sk. Sukhi @ Md. Hasan.
- 17.3 Md. Wais, son of Sk. Sukhi @ Md. Hasan.
- 17.4 Afsar Imam, son of Sk. Sukhi @ Md. Hasan.
- 17.5 Hazra Khatoon, daughter of Sk. Sukhi @ Md. Hasan.
- 17.6 Fatma Khatoon, daughter of Sk. Sukhi @ Md. Hasan.

... .. Respondent/s

Appearance :

For the Appellant/s	:	None
For the Respondent/s	:	None

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

45 14-12-2023 Perused the office notes.

2. As per the office notes, the appeal was dismissed on 16.01.2004 on the ground of incompetency as the appeal had abated against respondent nos. 3, 6, 7 and 16.

3. Later on, the appellants filed MJC No. 702 of 2020 and vide order dated 14.10.2022, the instant first appeal has been restored to its original file on the ground that it was dismissed for non-prosecution on 16.01.2004.



4. The appellants had filed MJC No.702 of 2020 for restoration of this appeal which stood dismissed on 16.01.2004 on account of death of Mangal Prasad Mishra, who was representing the appellants.

5. By order dated 16.01.2004 passed in the instant appeal, it was held that the appeal has abated against respondent nos. 3, 6, 7 and 16. It was further held that impugned judgment and decree has become final in so far as the aforesaid respondents are concerned. If the appeal is allowed to continue with respect to the remaining respondents, it may result in inconsistent judgment and decree. The appeal as a whole has become incompetent and cannot proceed. Accordingly, the appeal was dismissed.

6. None is appearing on behalf of the appellants since long. It seems that the appellants have lost interest in pursuing the appeal.

7. In the facts and circumstances of the case, it is held that appeal as a whole has become incompetent and cannot proceed any further.

8. Accordingly, the appeal stands dismissed.

(Khatim Reza, J)

J. Alam/-

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