

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1450 of 2018

Jai Prakash Singh Son of Late Yamuna Singh, Resident of At, P.S. and District- Lakhisarai.

... .. Petitioner/s

Versus

1. Neelam Devi Wife of Satish Prasad Singh, Resident of Bhador, P.S.- Barh, District- Patna.
2. Ram Nihar Singh, Son of Late Parmeshwar Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
3. Indu Devi, Wife of Ramanand Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
4. Bittu Kumar, Son of Ramanand Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
5. Banti Kumar, Son of Ramanand Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
6. Priyashi Kumari, Daughter of Ramanand Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
7. Puspam Kumari, daughter of Ram Nihar Singh, under the guardianship of their father Ram Nihar Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
8. Shuki Kumari, daughter of Ram Nihar Singh, under the guardianship of their father Ram Nihar Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
9. Soni Kumari, daughter of Ram Nihar Singh, under the guardianship of their father Ram Nihar Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
10. Babli Kumari, daughter of Ram Nihar Singh, under the guardianship of their father Ram Nihar Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
11. Chuha Singh, Son of Ram Nihar Singh under the guardianship of their father Ram Nihar Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
12. Subat Singh, Son of Ram Nihar Singh, under the guardianship of their father Ram Nihar Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
13. Kajal Kumari, D/o Ram Nihar Singh, under the guardianship of their father Ram Nihar Singh, Resident of Mano Rampur, P.S.- Surajgarha, District- Munger now Lakhisarai
14. Permanand Singh, Son of Late Lakshmi Singh, resident of Mohalla- Rampur, P.S. and P.S.- Jamalpur, District- Munger.
15. Sadanand Singh, Son of Late Lakshmi Singh, resident of Mohalla- Rampur, P.S. and P.S.- Jamalpur, District- Munger.



16. Arbind Singh, Son of Late Lakshmi Sigh, resident of Mohalla- Rampur, P.S. and P.S.- Jamalpur, District- Munger.
17. Kato Singh Son of Late Sunder Singh resident of Mohalla- Rampur, P.S. and P.O.- Jamalpur, Sub- Division and District- Munger.
18. Manna Singh, Son of Late Sunder Singh, resident of Mohalla- Rampur, P.S. and P.O.- Jamalpur, Sub- Division and District- Munger.
19. Mritunjay Parasar, Son of Jai Prakash Singh, Resident of At, P.S. and District- Lakhisarai.
20. Chandan Kumar, Son of Jai Prakash Singh, Resident of At, P.S. and District- Lakhisarai.
21. Sourabh Kumar, Son of Jai Prakash Singh, Resident of At, P.S. and District- Lakhisarai.
22. Smriti Parasar, Daughter of Jai Prakash Singh, Resident of At, P.S. and District- Lakhisarai.
23. Priyadarshini Parasar, Daughter of Jai Prakash Singh, Resident of At, P.S. and District- Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate
For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

4 10-02-2023 Despite service of notice and sufficient opportunity, respondent no. 15 against whom notice was issued, did not appear before this Court.

Heard learned counsel for the petitioner.

This Civil Miscellaneous Application has been filed for setting aside the order dated 13.06.2018 passed by the learned Sub-Judge-VIth, Munger in T.S. No. 106/83 whereby the learned Court below has appointed defendant no. 4 (respondent no.15 herein) as receiver of the properties in question in place of defendant no. 2 after his death.



The brief facts of the case are that Title (Partition) Suit No. 106/1983 was filed in which the petitioner and respondents no. 21 to 25 were substituted as plaintiff. The father of defendant no. 4 (respondent no. 15 herein) was appointed as receiver in the light of order passed by this Court and after his death elder brother of defendant no. 4 i.e. defendant no. 2, namely, Ramanand Singh was appointed receiver on 12.01.2005 who died on 02.06.2017. The petitioner filed a petition dated 10.07.2017 for appointing him as a receiver in place of defendant no. 2 and proposed inter alia to deposit Rs. 1,20,000/- per year with 16 % interest per annum on delayed payment. The defendant no. 4 (respondent no. 15) filed reply stating that he is ready to comply with whatever condition the learned Court would impose for appointing him as receiver. The learned Court below vide the impugned order dated 13.06.2018 appointed defendant no. 4 (respondent no. 15) as receiver and directed to deposit Rs. 1,00,000/- on completion of one year.

Learned counsel for the petitioner submits that the impugned order has been passed without assigning any reason or finding for denying the petitioner to be appointed as receiver and appointing defendant no. 4 as receiver on lesser amount offered by the petitioner.



From perusal of the impugned order dated 13.06.2018 it appears that the Court has not assigned any reason either for making the respondent no.4 as receiver or fixing lesser amount to deposit than the amount offered by the petitioner.

Having heard the learned counsel for the petitioner and on perusal of the record it appears that the Court has not considered the point that the petitioner has given offer for depositing of Rs.1,20,000/- per annum and the interest on delayed payment but appointed defendant no. 4 as receiver without assigning any reason which is mechanical and cryptic.

Speaking order or reasoned order is a part of natural justice. Failure to give reasons may amount to denial of justice. Reasons are the soul of the decision. The reasons given in order/judgment reflects the mind of the Court and the factors that weighed as well as the law applied in order to come to a conclusion that it does. Reading the reason given in order/judgment enable both the parties to know why the decision has gone against them or in favour of them. It satisfies the test of justice, not only being done but also appears to have been done. Giving reasons avoids the arbitrary exercise of power and it helps in removing even the impression that the decision was given in an arbitrary manner. It guarantees transparency. An



order adverse to a party which is not a speaking order will pose great difficulty to the concerned party in understanding why he has been denied certain benefits or advantages or why his application is not allowed. Accordingly, requirement of recording reasons and communication thereof are considered as an integral part of the concept of just and fair judicial procedure and are very important facts of natural justice.

The Court before which the proceedings are pending can appoint a receiver if it appears just and convenient to the Court to appoint such receiver. It is within discretionary power of the Court to appoint the receiver however, the discretion is not absolute, arbitrary or unregulated. The expression just and convenient does not mean arbitrary order. The court should look at the conduct of the party who makes the application for appointment of a receiver.

Considering the aforesaid facts and circumstances of the case and the settled principles stated above, it is clear that impugned order dated 13.06.2018 has been passed without assigning any valid reason for appointment of defendant no. 4 in lesser offered amount is liable to be set aside and the impugned order is accordingly set aside. The learned Court below is directed to decide afresh and pass speaking order with respect to



appointment of receiver.

Accordingly, this Civil Miscellaneous Application is
allowed.

(Sunil Dutta Mishra, J)

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