

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.448 of 2018

1. Rehana Khatoon, widow of Late Md. Wasim.
2. Nahid Shamima, Daughter of Late Md. Wasim.
3. Viqar Azim, Son of Late Md. Wasim.
All residents of Mohalla-Saguna Danapur, Police Station- Danapur,
District- Patna- 801503.

... .. Petitioners

Versus

1. Surendra Prasad Choudhary
2. Krishna Kumar Choudhary
3. Hira Lal Choudhary
4. Mahesh Kumar Choudhary
All sons of Late Pyare Lal Choudhary
5. Raj Kumari Devi, Wife of Late Pyare Lal Choudhary
6. Suresh Choudhary,
7. Madhusudan Choudhary
8. Saroj Kumar Choudhary
All sons of Late Nepali Choudhary
9. Sunaina Devi, Wife of Late Nepali Choudhary.
Legal Heirs of Late Nepali Choudhary
10. Dulare Choudhary, Son of Late Karmu Choudhary
11. Jitendra Choudhary, Son of Late Karmu Choudhary.
All resident of Rajghat Nawada, Police Station- Punpun, District-
Patna.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Raghib Ahsan, Sr. Advocate Mr. Saba Ashfaque, Advocate Mr. Ashar Akhtar, Advocate Mr. Wasi, Advocate Md. Shahab Khalil, Advocate
For the Respondents	:	Mr. Bindeshwar Kumar, Advocate Mr. Subodh Kumar Jha, Advocate Mr. Awadhesh Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 19-09-2023 This application has been filed for quashing of the

order dated 17.02.2018 passed by the learned Additional District



Judge-I, Danapur in Title Appeal No.21 of 1999, by which the application filed by respondent nos. 6 to 9 for their substitution in place of late Nepali Choudhary has been allowed after condoning the delay in filing the substitution petition.

2. It has been submitted by learned counsel for the petitioners that while passing the impugned order the contentions of the petitioners have not been considered. It has also been submitted that the objection with regard to the abatement of the suit was argued in the Court below by the learned counsel for the petitioner but the same has not been noted and there is no finding with regard to the abatement issue raised by the petitioners.

3. Learned counsel for the respondents has submitted that the impugned order is just and proper and therefore, this Court may not interfere with the same.

4. Considered the submissions of the parties and also perused the materials on record. It appears that the impugned order is a cryptic order in which the submissions of the petitioners have not been considered by the Court below.

5. In such circumstance, the impugned order dated order dated 17.02.2018 passed by the learned Additional District Judge-I, Danapur in Title Appeal No.21 of 1999 is set



aside. The matter is remitted back to the Additional District Judge-I, Danapur for fresh consideration of petitions dated 08.01.2018 and 24.01.2018. While deciding the petitions, the Additional District Judge must note down the submissions of both the parties and decide the issues raised by both the parties after considering the judgments relied upon by both the parties within one month from the date of communication of this order.

6. This Court is not giving the details of the arguments and the judgments in the present order as the matter is again to be heard by the Court below. If the respondents succeed in the present matter then the Court below will proceed with the Title Appeal and decide the same within three months of passing of the order.

7. With the aforesaid observations and directions, this application is allowed without expressing any opinion on the merits of the case of either of the parties.

(Sandeep Kumar, J)

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