

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1960 of 2017

Arbind Kumar @ Tinku Mandal @ Tinku Son of Uma Shankar Mandal,
Resident of village- Kiul Basti Pachna Road, Chandani Chowk, Bishhari
Asthan, P.O. P.S. and District- Lakhisarai.

... .. Petitioner/s

Versus

1. Abhishek Kumar Son of Ram Baran Mahto.
2. Priyanka Kumari, Wife of Abhishek Kumar, Both resident of Village-
Badahiya English Ward No. 11, P.O. P.S.- Badahiya, District- Lakhisarai at
present Resident of Village P.S.- Tergaon, District- Kupwada. Jammu and
Kashmir.
3. Smt. Phula Devi, Wife of Rameshwar Mandal, Resident of village-
Dharamraj Chak, P.O.- Purana Bazar, P.S. and District- Lakhisarai.
4. Rajendra Mandal, Son of Late Jagdish Mandal, Resident of Village- Kiul
Basti Pachna Road, Chandani Chowk, Bishhari Asthan, P.O. Police Station
and District- Lakhisarai.
5. Rameshwar Mandal, Son of Late Bishabhar Mandal, Resident of village
Dharamraj Chak, P.O.- Purana Bazar, P.S. and District- Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Sudha Ambastha, Advocate Ms. Ananya Roy, Advocate
For the Respondent/s	:	Mr. Manish Kumar No. 2, Advocate Mr. Nilendu Kumar Choudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

2 23-03-2023 Heard learned counsel for the parties.

This Civil Miscellaneous Application has been filed
under Article 227 of the Constitution of India against the order
dated 15.12.2016 passed in Miscellaneous Case No. 14 of 2011
(Arising out of Title Suit No. 51 of 2009) by which learned
court below has set aside the judgment and decree dated
24.09.2011 and 28.09.2011 respectively and allowed the Civil



Miscellaneous Case filed by respondent 1st set under Order 9 Rule 13 of the Code of Civil Procedure.

Learned counsel for the petitioner submits that defendants had knowledge about the proceeding of the Title Suit No. 51 of 2009 but he failed to appear in the Court without any sufficient reason. He further submits that the summons issued in the suit was properly served to the defendants in the manner provided under Order V of the Code of Civil Procedure. Accordingly, the learned court below is not justified in setting aside the judgment and decree passed in favour of the plaintiff / petitioner.

On the other hand, learned counsel for the respondents submits that notice on respondents had not been properly served due to which he had not appeared in the court below and the learned court below by a detailed and reasoned order passed the impugned order and thereby allowed the miscellaneous petition with a cost of Rs. 3000/- which requires no interference by this Court.

Having heard learned counsel for the parties and perused the materials on record, it appears from the impugned order that the learned court below on analyzing record and evidence concluded that the service of summons issued in the



suit was not duly served. The learned court below has passed the reasoned and detailed order on considering the material on record.

In view of the above, I do not find any jurisdictional error or illegality for interference by this Court under the supervisory jurisdiction under Article 227 of the Constitution of India. Accordingly this Civil Miscellaneous is dismissed.

(Sunil Dutta Mishra, J)

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