

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.1448 of 2018**

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1. Shyamdeo Singh and Ors
2. Ajeet Singh,
3. Ramdeo Singh,
4. Ram Naresh Singh, All S/o Amira Singh,
5. Babu Sahab Singh,
6. Parmatma Singh, Both S/o Late Ram Nandan Singh, All are R/o Village-  
Piprahiya, P.O.- Piprahiya, PS- Asawan, District- Siwan.

... .. Petitioners

Versus

1. Bharat Singh and Ors S/o Late Indrason Singh, R/o Village- Piprahiya, PO-  
Piprahiya, PS- Asawan District- Siwan.
2. Kapildeo Thakur, S/o Chandra Thakur, R/o Vllage Piprahiya, PO- Piprahiya,  
PS- Asawan, District- Siwan.
3. Arti Devi,
4. Anita Devi,
5. Nitu Kumara, All D/o Late Ramnandan Singh, All are R/o Village-  
Piprahiya, P.O.- Piprahiya, PS- Asawan, District- Siwan.

... .. Respondents

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**Appearance :**

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| For the Petitioners | : | Mr. Chandra Kant, Advocate       |
| For the Respondents | : | Mr. Ranjan Kumar Dubey, Advocate |
|                     |   | Mr. Kumar Gaurav, Advocate       |
|                     |   | Mr. Bambam Kumar, Advocate       |

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**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**ORAL ORDER**

10    06-10-2023

Heard learned counsel for the parties.

2.     The petitioner is challenging the order dated 08.06.2018 passed by learned Additional District & Sessions Judge, VI, Siwan in Miscellaneous Appeal No. 19 of 2013, by which the learned Additional District & Sessions Judge has set aside the ex-parte judgment and decree dated 07.05.2013 passed by the learned Munsif, Siwan in Miscellaneous Case No. 01 of 2007.



3. The Title Suit No.195 of 1991 was decreed ex-parte. An application for setting aside the ex-parte decree was filed by the respondents under Order IX Rule 13 of the Code of Civil Procedure and the same was numbered as Miscellaneous Case No. 01 of 2007. The original Court dismissed the Miscellaneous Case vide order dated 07.05.2013 after giving a finding that the case put up by the applicant was not believable and the Miscellaneous Case was filed after a delay of 11 years. Against the aforesaid order, the respondents preferred Miscellaneous Appeal No.19 of 2013, which has been allowed by a detailed judgment and order, which is impugned in this case. The learned Additional District and Sessions Judge has rightly held that service of summons/notices on the defendants was not proper and the limitation has been explained sufficiently and thereafter set aside the order passed by the original Court.

4. Learned counsel for the petitioner has tried to re-canvass the points which were earlier canvassed by him in the Court below and wants this Court to examine the entire materials available on record to reverse the order of the Appellate Court.

5. I see no illegality and infirmity in the



findings arrived at by the Appellate Court. Moreover, the suit should always be decided on contest to avoid multiplicity of proceedings.

6. In the aforesaid circumstances, this application is dismissed. The Sub Judge concerned is directed to proceed with the Title Suit and decide the same expeditiously preferably within one year from the date of receipt/production of a copy of this order without granting unnecessary adjournment to either of the parties. The Sub Judge will proceed ex-parte against non-cooperating party.

**(Sandeep Kumar, J)**

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