

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.262 of 2022**

Md. Kadir @ Md. Kader Son of Farjan Ali resident of Mohalla Kayasth Tola ward No. 28 Saharsa under Nagar Parishad PS and District - Saharsa.

... .. Petitioner

Versus

Abdul Samad son of Farjan Ali resident of Mohalla Kayasth Tola ward No. 28 Saharsa under Nagar Parishad P.S. and District -Saharsa.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Diwakar Prasad Singh, Advocate
For the Respondent	:	Mr. Nishant Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 03-10-2023

Re:- Interlocutory Application No.01 of 2023

This application has been filed for condoning the delay in filing the substitution petition.

2. This Court is satisfied with the reasons mentioned in the application. Accordingly, the Interlocutory Application No.01 of 2023 is allowed and the delay in filing of substitution petition is condoned.

Re:- Interlocutory Application No.02 of 2023

3. This Interlocutory Application has been filed for substitution of heir and legal representative of sole respondent namely, Abdul Samad, who died during the pendency of this case leaving behind his heir and legal representative, whose details have been mentioned in paragraph no.2 of this Application.



4. This Interlocutory Application is allowed. The heir and legal representative of respondent-Abdul Samad, as detailed in paragraph no.2 of this Interlocutory Application, be substituted in his place and the name of sole respondent be expunged from the array of the parties. The persons whose details have been given in paragraph no.2 of this application shall be treated to be the heirs and legal representatives of the respondent.

Re:- Civil Miscellaneous No.262 of 2022

5. Heard the parties.

6. This application has been filed for quashing of the order dated 26.11.2021 passed by learned Sub Judge-V, Saharsa, in Title Suit No.269 of 2019, by which the prayer of the petitioner to recall the order dated 21.01.2020 has been rejected.

7. With consent of the parties, the impugned order dated 26.11.2021 passed by learned Sub Judge-V, Saharsa, in Title Suit No.269 of 2019 is set aside. The Court below is directed to proceed with the Title Suit No.269 of 2019 and decide the same within one and half year from today without granting unnecessary adjournment to either of the parties and thereafter file a compliance report before this Court. If the



petitioner files his Written Statement within three weeks from today, the Court below shall accept the same.

8. With the aforesaid observations and directions, this application stands allowed.

(Sandeep Kumar, J)

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