

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.863 of 2019

1. Pramod Kumar Verma Son of Late Nagendra Prasad Verma Resident of Village/Mohalla- Banpar Tola, R.K. R.K. Bhattacharya Road, P.S.- Gandhi Maidan, District- Patna.
2. Krishna Devi Widow of Late Shiv Shankar Prasad Verma Resident of Village/Mohalla- Banpar Tola, R.K. R.K. Bhattacharya Road, P.S.- Gandhi Maidan, District- Patna.
3. Amit Kr. Verma Son of Late Shiv Shankar Prasad Verma Resident of Village/Mohalla- Banpar Tola, R.K. R.K. Bhattacharya Road, P.S.- Gandhi Maidan, District- Patna.
4. Anita Kumari Daughter of Late Shiv Shankar Prasad Verma Resident of Village/Mohalla- Banpar Tola, R.K. R.K. Bhattacharya Road, P.S.- Gandhi Maidan, District- Patna.
5. Amar Kumar @ Amar Kr. Verma Son of Late Shiv Shankar Prasad Verma Resident of Village/Mohalla- Banpar Tola, R.K. R.K. Bhattacharya Road, P.S.- Gandhi Maidan, District- Patna.
6. Abhay Kumar Verma Son of Late Shiv Shankar Prasad Verma Resident of Village/Mohalla- Banpar Tola, R.K. R.K. Bhattacharya Road, P.S.- Gandhi Maidan, District- Patna.
7. Binod Kumar Verma Son of Late Nagendra Prasad Verma Resident of Village/Mohalla- Banpar Tola, R.K. R.K. Bhattacharya Road, P.S.- Gandhi Maidan, District- Patna.

... .. Petitioner/s

Versus

Shri Sunil Kamaliya Son of Late Om Prakash Kamaliya Resident of Mohalla-Chowk, Patna City, P.S.- Chowk, District- Patna, through Subsequent Purchaser Vijay Kumar Son of Late Ram Nagina Singh as the Partner of M/s Durga Construction Company, Resident of Flat No. G-1, C.S.D. Apartment behind Sanskrit Board, P.S.- Patliputra, P.O.- G.P.O., District- Patna- 800001.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sunil Srivastava, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL ORDER

2 05-04-2023

Heard learned counsel for the petitioners.

This application has been filed by the petitioners
under Article 227 of the Constitution of India for setting aside
the order dated 13.03.2019 passed in Execution Case No. 01 of



2010 / (41 of 2015) passed by learned Successor Sub Judge IV, Patna.

Learned counsel for the petitioners submits that the learned Court below vide order dated 20.06.2018 had directed the decree holder to remain present physically before the Court but the same has not been complied by the decree holder. However, he moved a petition dated 02.01.2019 under Section 151 C.P.C. to recall the order dated 20.06.2018 on the ground that the decree holder is very old and is carrying business out of State and is also unable to participate in daily routine work due to his illness.

That application was allowed by the learned Court below by the impugned order.

Learned counsel for the petitioner submits that there was no occasion to recall the previous direction of the Court below for physical appearance of the decree holder.

He further submits that the Court has no power to recall its own order under Section 151 C.P.C. and accordingly, the impugned order is liable to be set aside.

He further submits that the earlier order was passed after hearing both the parties.

Heard learned counsel for the petitioner and perused



the materials available on record. From perusal of the impugned order it appears that the Court heard the parties and passed the impugned order. He considered the ground taken by the respondents / decree-holder that he is old person carrying business out of State and has executed a power of attorney to his uncle Mahavir Prasad Kamaliya for doing all legal work in the said case and also observed that the judgment-debtor / petitioner has not pointed out any specific reason as to why physical presence of decree holder is required. Accordingly, the Court below passed the impugned order recalling the previous order dated 20.06.2018 in which the decree holder was directed to appear before the Court.

It is evident that the impugned order has been passed after considering the materials on record and is well reasoned order accordingly, in my opinion, there is no requirement of any interference by this Court under its supervisory jurisdiction under Article 227 of the Constitution of India. The application is devoid of any merit.

This Civil Miscellaneous application is accordingly, dismissed.

(Sunil Dutta Mishra, J)

saaurabhkr/-

U			
---	--	--	--

