

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.186 of 2019

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1. Sudama Mahto, son of Late Gendhari Mahto, resident of Village Pendi, P.O. Chero Sarmera, P.S. Sarmera, District Nalanda.
 2. Hari Lal Mahto, son of Late Menu Mahto, resident of Village Pendi, P.O. Chero Sarmera, P.S. Sarmera, District Nalanda.
 3. Prabhu Mahto, son of Late Menu Mahto, resident of Village Pendi, P.O. Chero Sarmera, P.S. Sarmera, District Nalanda.
 4. Shankar Mahto, son of Late Menu Mahto, resident of Village Pendi, P.O. Chero Sarmera, P.S. Sarmera, District Nalanda.

... .. Petitioner/s

Versus

1. Birju Singh, son of Darshan Singh, resident of Mokama, P.S. Mokama, District Patna.
2. Dondi Singh, son of Late Diwan Singh, resident of Mokama, P.S. Mokama, District Patna.
3. Kakku Singh, son of Late Diwan Singh, resident of Mokama, P.S. Mokama, District Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jagannath Prasad Mr. Uday Prasad Sindu
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 29-08-2023 The present revision petition is at the stage of hearing
on the point of admission.

2. Heard.

3. The present revision petition has been preferred against the order dated 04.07.2019 passed by Ld. Sub-Judge VI, Biharsharif in Title Suit No. 126 of 1999, whereby the suit has been dismissed for want of jurisdiction of the Court. This order was passed on objection regarding jurisdiction having been



taken by defendant after appearance.

4. As per Rule 10 of Order VII of Civil Procedure Code, suit is required to be returned to the plaintiff if the Court has no jurisdiction to entertain and thereafter the plaintiff can file a suit in the Court where suit should have been instituted. It is further relevant to point out that as per Order 43, such order is appellable. As such, the petitioner should have filed Miscellaneous Appeal before District Judge, Biharshariff in view of valuation of the suit as Rs. 35,000/-

5. At this stage, Ld. Counsel for the petitioner is praying for withdrawal of the present petition with liberty to file Miscellaneous Appeal before the Court of competent jurisdiction.

6. Accordingly, the present revision petition is dismissed as withdrawn with liberty to the petitioner to file Miscellaneous Appeal before the Court of competent jurisdiction and the Court, where the Miscellaneous Appeal is filed, will consider the Section 14 to condone the delay arising out of agitating the matter before the wrong forum.

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(Jitendra Kumar, J)

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