

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.74 of 2022

Pintu Mishra, S/o Sri Ganesh Mishra, Resident of RZ-B-16A, Arjun Park, Najafgarh Nagli Sakrawati, South West Delhi, Delhi - 110043 Permanently residing at village - Dahibhat Dih, P.S.- Sakri, District - Madhubani (Bihar).

... .. Petitioner/s

Versus

1. Madan Mohan Mishra, S/o Late Ram Sundar Mishra, Resident of Pandaul Bazar, P.S. - Pandaul, District - Madhubani (Bihar).
2. Dharendra Mishra, S/o Late Shashi Mohan Mishra, Resident of Village - Dularpur, P.O. - Mokram Pur, P.S. - Sadar, District - Darbhanga (Bihar).
3. Ram Chandra Sahu, S/o Late Lakshmi Sahu, Resident of Pandual, P.O. and P.S. - Pandual, District - Madhubani (Bihar).
4. Ram Sevak Purvey, Son of Ram Awtar Purvey and Mother Ram Pari Devi, Resident of Pandual, P.O. and P.S. - Pandual, District - Madhubani (Bihar)
5. Umesh Purvey, Son of Ram Awtar Purvey and Mother Ram Pari Devi, Resident of Pandual, P.O. and P.S. - Pandual, District - Madhubani (Bihar)
6. Surya Purvey, Son of Ram Awtar Purvey and Mother Ram Pari Devi, Resident of Pandual, P.O. and P.S. - Pandual, District - Madhubani (Bihar)
7. Lakshmi Purvey, Son of Late Ram Khelawan Purvey and Mother Fulo Devi, Resident of Pandual, P.O. and P.S. - Pandual, District - Madhubani (Bihar)
8. Mithilesh Purvey, Son of Late Ram Khelawan Purvey and Mother Fulo Devi, Resident of Pandual, P.O. and P.S. - Pandual, District - Madhubani (Bihar)
9. Dinesh Purvey, Son of Late Ram Khelawan Purvey and Mother Fulo Devi, Resident of Pandual, P.O. and P.S. - Pandual, District - Madhubani (Bihar)
10. Binod Purvey, Son of Late Ram Khelawan Purvey and Mother Fulo Devi, Resident of Pandual, P.O. and P.S. - Pandual, District - Madhubani (Bihar)
11. Bishwanath Purvey, Son of Late Raghunandan Purvey and Mother Bucchi Devi, Resident of Pandual, P.O. and P.S. - Pandual, District - Madhubani (Bihar)
12. Ashok Purvey, Son of Late Raghunandan Purvey and Mother Bucchi Devi, Resident of Pandual, P.O. and P.S. - Pandual, District - Madhubani (Bihar)
13. Upendra Purvey @ Lakshmi Purvey, Son of Late Raghunandan Purvey and Mother Bucchi Devi, Resident of Pandual, P.O. and P.S. - Pandual, District - Madhubani (Bihar)

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Nagendra Rai, Advocate
		Mr. Shashi Nath Jha, Advocate
For the Respondent/s	:	Mr. Prabhas Ranjan, Advocate



CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

7 19-09-2024 Heard learned counsel for the parties.

2. Learned counsel for the petitioner submits that there has been an error of record in Misc. Case No. 11 of 2015. The impugned order was passed on 13.04.2021. It was the time of COVID-19 and courts were functioning through virtual mode. On 13.04.2021 the matter was fixed for evidence of the intervenor-petitioner. However, on the same day the order sheet mentioned that on oral request of the parties, the case has been fixed for hearing and order through V.C. after recess. But there had been no such request from the learned counsel for the intervenor-petitioner. Learned counsel further submits that the copy of certificate given by the learned counsel for the petitioner has been placed on record, wherein the learned counsel has specifically stated that he did not make any request either orally or in writing on behalf of the petitioner for hearing and passing of the order. Still, the order dated 13.04.2021 has been passed and the petitioner may be given an opportunity to take up the matter before the learned subordinate court. Learned counsel further submits that the petitioner may be given liberty to raise the issue before the learned subordinate court and with this liberty, the petition be disposed of and the matter be



remanded to the learned subordinate court to pass orders afresh after giving opportunity of hearing to the petitioner

3. Learned counsel appearing on behalf of respondent no. 1 though initially opposes the prayer but subsequently concedes that the matter may be remanded to the learned trial court for passing the orders afresh.

4. Though an unusual prayer has been made, however, in the light of submission made on behalf of the parties and to allow the petitioner to ventilate his grievance before the court concerned regarding factual inaccuracies, the impugned order dated 13.04.2021 is set aside and the matter is remanded to the learned trial court for passing the order afresh after taking into consideration the submission of the respective parties. However, learned trial court would proceed in the matter strictly on merits and uninfluenced by any observation made herein before.

5. Accordingly, the present petition stands disposed of.

(Arun Kumar Jha, J)

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