

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1495 of 2018

1. Syed Iftekhar Ahmad @ Saheb
2. Syed Imteyaz Ahmad@ Chhotey Sons of late Syed Zaffar Hasnain @Lal Babu Both Residents of Mohalla- Gyan Babu Chowk, P.O. and P.S. Motihari Town, District- East Champaran.,

... .. Petitioner/s

Versus

Bibi Shahnaj Begum W/oJamil Akhtar@ Jawed Resident of Mohalla- Bucher Toli, P.S. Town Motihari, P.O. Motihari, District- East Champaran at Present Mohalla- Bajaj Patti,Near Nawyuvak Pustakalay, Main Road, P.S. Town Motihari, District- East Champaran.

... .. Respondent/s

with
FIRST APPEAL No. 333 of 1992

Bibi Aisha Begam And Ors

... .. Appellant/s

Versus

Bibi Shahnaz Begam And Anr

... .. Respondent/s

with
FIRST APPEAL No. 69 of 2013

1. Bibi Aisha Begam W/O Syed Zaffar Hussain Resident Of Mohalla Gyan Babu Chowk, P.S. And P.O. Motihari, Town And District East Champaran.
2. Syed Iftekar Ahmad @ Saheb S/O Syed Zaffar Hussain @ Lal Babu Resident Of Mohalla Gyan Babu Chowk, P.S. And P.O. Motihari, Town And District East Champaran.
3. Syed Imteyaz Ashmad @ Chhotey S/O Syed Zaffar Hussain @ Lal Babu



Resident Of Mohalla Gyan Babu Chowk, P.S. And P.O. Motihari, Town And District East Champaran.

4. Bibi Shah Jahan Begam D/O Syed Zaffar Hasnain @ Lal Babu W/O Syed Md. Hassan @ Chana Babu Resident Of Village Mathurapur, P.S. Turkulia, District East Champaran At Present Mohalla Gyan Babu Chowk, Rani Kothi, P.O. and P.S. Motihari, Town And District East Champaran.

... .. Appellant/s

Versus

1. Bibi Shahnaj Begum and Anr. Wrongly Describing Hereself As D/O Syed Zaffran Hussnain @ Lal Babu W/O Jamil Akhtar @ Jawed Resident Of Mohalla Buchai Toli, Motihari Town, P.O. and P.S. Motihari, District East Champaran.
2. Bibi Shamina Khatoon W/O Md. Shafique Resident Of Mohalla Mislota, Town Motihari, P.O. and P.S. Motihari, District East Champaran.

... .. Respondent/s

Appearance :

(In CIVIL MISCELLANEOUS JURISDICTION No. 1495 of 2018)

For the Petitioner/s : Mr. Bal Bhushan Choudhary, Advocate

For the Respondent/s : Mr. Pandit Jee Pandey, Advocate

(In FIRST APPEAL No. 333 of 1992)

For the Appellant/s : Mr. Ravi Shankar Prasad, Advocate

For the Respondent/s : Mr. Dhananjay Kumar, Advocate

(In FIRST APPEAL No. 69 of 2013)

For the Appellant/s : Mr.

For the Respondent/s : Mr. Pandit Jee Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

13 08-02-2024

C. Misc. No. 1495 of 2018

Heard learned counsel for the petitioners as well as learned counsel for the respondent.

2. The present petition has been filed against the order dated 12.06.2018 passed by learned Subordinate Judge-I, Motihari in F.D. No. 399 of 1985, whereby the petitions dated



19.02.2018 filed on behalf of defendant nos. 2 and 3 separately with a prayer to recall the order dated 06.01.2018 passed in the said case by which direction was to comply the orders dated 30.03.2017 and 17.06.2017 which were passed without hearing the petitioners, were rejected.

3. The facts giving rise to the present petition is that the learned Subordinate Judge-I, Motihari passed orders dated 30.03.2017 and 17.06.2017 for compliance of orders dated 29.11.1997 and 27.05.1999 whereby the receivers were directed to file fresh returns but the orders were not complied with. Thereafter, the learned Subordinate Judge -I passed order dated 06.01.2018 directing the receivers, who are defendant nos. 2 and 3 before the learned trial court and petitioners herein to comply the orders dated 30.03.2017 and 17.06.2017 within 15 days, failing which the learned court below warned them that it would initiate contempt proceeding against them as per law. Thereafter, the petitioners-defendants filed two separate petitions before the learned trial court on 19.02.2018 to recall the order dated 06.01.2018 which was passed ex-parte without hearing them. The same were rejected vide order dated 12.06.2018 (impugned order) and hence, the present Civil Miscellaneous petition.



4. It has been submitted by learned counsel for the petitioners that while this petition was filed against the order dated 12.06.2018, the learned Sub-ordinate Judge-I, Motihari referred the matter to this Court in First Appeal Nos. 333 of 1992 and 69 of 2013 for initiation of contempt proceeding against the petitioners and Co-ordinate Bench of this Court vide order dated 14.05.1999 issued notice to the petitioners-defendant nos. 2 and 3 and thereafter, they appeared and filed their show cause which was accepted but no separate contempt proceeding was initiated. But after hearing the matter, Co-ordinate Bench vide order dated 24.01.2020 ordered that the controversy regarding initiation of contempt would be considered at the time of hearing. It seems by this order initiation of contempt proceeding has been deemed to be stayed. Thereafter, the hearing started and has been continuing in First Appeal Nos. 333 of 1992 and 69 of 2013.

5. Thus, the learned counsel submits that in the light of the aforesaid facts and circumstances, the present petition has become infructuous and so learned counsel for the petitioners seeks permission to withdraw the present petition. The same is not opposed by the learned counsel appearing on behalf of the respondent.



6. Permission is accorded.

7. Accordingly, the present petition is dismissed as withdrawn.

F.A. Nos. 333 of 1992 & 69 of 2013

8. Vide order dated 10.10.2023, the Co-ordinate Bench directed to list the Civil Miscellaneous Petition along with First Appeal No. 333 of 1992.

9. Since the Civil Miscellaneous Petition has been dismissed as withdrawn, First Appeal Nos. 333 of 1992 and 69 of 2013 be listed before roster Bench/appropriate Bench.

(Arun Kumar Jha, J)

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