

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1 of 2023

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Raghuvar Sah s/o Late Deo Nath Sah Resident of Village- Dhobwal, P.O.-
Dhanao, P.S.- Baniyapur, District- Saran.

... .. Petitioner/s

Versus

1. Maksud Alam s/o Late Rajak Miyan Resident of Village- Dhobwal, P.O.-
Dhanao, P.S.- Baniyapur, District- Saran.
2. Lallan Sah s/o Late Nayak Sah Resident of Village- Dhobwal, P.O.- Dhanao,
P.S.- Baniyapur, District- Saran.
3. Kapuri Sah son of Late Deo Nath Sah Resident of Village- Dhobwal, P.O.-
Dhanao, P.S.- Baniyapur, District- Saran.
4. Jay Chand Sah son of Late Deo Nath Sah Resident of Village- Dhobwal,
P.O.- Dhanao, P.S.- Baniyapur, District- Saran.
5. Dipak Sah son of Late Deo Nath Sah Resident of Village- Dhobwal, P.O.-
Dhanao, P.S.- Baniyapur, District- Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nagendra Rai, Advocate Mr. Navin Nikunj, Advocate Mr. Koshalendra Rai, Advocate
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 12-09-2024

Re;- I.A. No.01 of 2024

The instant Interlocutory Application has been filed on behalf of the petitioner for expunging the name of respondent no.1 Maksud Alam and substituting the same with his heirs/legal representatives.

2. Learned counsel appearing on behalf of the petitioner submits that respondent no.1 died on 20.03.2024 and details of his legal heirs have been mentioned in paragraph no.3 of the interlocutory application.



3. Having regard to the facts and circumstances and submissions made on behalf of the petitioner and the averments made in this interlocutory application, I.A. No. 1 of 2024 is allowed.

4. Office is directed to expunge the name of respondent no.1 Maksud Alam from the record and substitute the same with his heirs/legal representatives as mentioned in paragraph no.3 of the interlocutory application.

Re;- Civil Misc. No. 1 of 2023

5. The petitioner has approached this Court against the order dated 29.08.2022 passed by the Civil Judge (Junior Division), Saran at Chapra in Title Suit No. 492 of 2020 whereby and whereunder the application of the plaintiff/respondent for substitution of defendant nos. 1 and 3 has been allowed for condoning the delay and setting aside the abatement.

6. Learned counsel for the petitioner submits that the defendant nos. 1 and 3 died in the year 1992-93 whereas the substitution was allowed considering the submission of the plaintiff/respondent that they died in the year 2020-21. Learned counsel further submits that the present petition may be disposed of while granting liberty to the petitioner to raise the



issue before the learned trial court to assail the contention of the respondents about date of death of defendant nos. 1 and 3 during proceeding as detailed evidence would be required for proving the date of death of defendant nos. 1 and 3.

7. In the light of submission made on behalf of the petitioner, the present civil miscellaneous petition is disposed of with liberty as aforesaid.

(Arun Kumar Jha, J)

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