

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.439 of 1989

1. Sheikh Md. Mohiuddin @ Md. Mohiuddin Son of Late Md. Farooque resident of Village and P.O. Mian Ke Bhatkan, Pergana Andar, Police Station- Andar, District- Siwan.
2. Nizamuddin alias Md. Nizamuddin son of Sheikh Mohammad Mohiuddin resident of Village and P.O. Mian Ke Bhatkan, Pergana Andar, P.S.- Andar, District- Siwan.
3. Sajuruddin alias Safaruddin son of Sheikh Mohammad Mohiuddin resident of Village and P.O. Mian Ke Bhatkan, Pergana Andar, P.S.- Andar, District- Siwan.
4. Masihuddin son of Sheikh Mohammad Mohiuddin, resident of Village and P.O. Mian Ke Bhatkan, Pergana Andar, P.S.- Andar, District- Siwan.

... .. Appellant/s

Versus

- 1.1. Md. Yakin son of Late Sheikh Mohammad Amin resident of Mohalla- Bhatakan, P.O.- Bhatakan, Via- Jiradei, District- Siwan.
- 1.2. Ladan son of Late Sheikh Mohammad Amin resident of Mohalla- Bhatakan, P.O.- Bhatakan, Via- Jiradei, District- Siwan.
- 1.3. Guddu son of Late Sheikh Mohammad Amin resident of Mohalla- Bhatakan, P.O.- Bhatakan, Via- Jiradei, District- Siwan.
- 1.4. Arashadi Khatoon D/o Late Sheikh Mohammad Amim and wife of Naim Ahmad, resident of Village Kharasanda, P.O.- Husainganj, District- Siwan.
- 1.5. Mustari Khatoon D/o Late Sheikh Mohammad Amim and wife of Nayeer Ahmad, resident of Village- Takhat Baroka Gaor, P.O.- Bhagwanpur, District- Siwan.
- 1.6. Guria Khatoon D/o Late Sheikh Mohammad Amim and wife of Mantum Alam, resident of Vill- Lakri P.O.- Wari Lakri, Via Muradpur, Dist- Siwan.
- 1.7. Nanki Khatoon D/o Late Sheikh Mohammad Amim, resident of Village- Bhatkan, Bhatari, Via- Ziradei, District- Siwan.
2. Sheikh Md. Moinuddin son of Late Md. Farooque resident of Village Mian Ke Bhatkan, Pergana Andar, P.S.- Andar, District- Siwan.
3. Bibi Janat Fatma alias Jinat Fatma daughter of late Md. Farooque, resident of Village Mian Ke Bhatkan, Pergana Andar, P.S.- Andar, District- Siwan.
4. Bibi Binat Fatma daughter of late Md. Farooque resident of Village Mian Ke Bhatkan, Pergana Andar, P.S.- Andar, District- Siwan.
5. Bibi Jannat Fatma daughter of late Md. Farooque resident of Village Mian Ke Bhatkan, Pergana Andar, P.S.- Andar, District- Siwan.
6. Bibi Mahafazul Khatoon daughter of late Md. Farooque, resident of Village Mian Ke Bhatkan, Pergana Andar, P.S.- Andar, District- Siwan.

... .. Respondent/s



Appearance :

For the Appellant/s : None
For the Respondent/s : None

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

23 17-11-2025 Upon repeated calls, no one appears either on behalf of the appellants or on behalf of the respondents.

2. Upon perusal of the records, it transpires to this Court that on previous occasion *vide* order no.22 dated 18.02.2025, no one appeared either on behalf of the appellants or on behalf of the respondents and the matter was adjourned for two weeks as a matter of last indulgence with specific direction that if no one appears on behalf of the appellants on the next appointed date, appropriate order shall be passed. The case was directed to be listed on 17.03.2025, but it could not be listed on the said date, instead thereof, this appeal has been listed today i.e. on 17.11.2025. Today also, no one appears either on behalf of the appellants or on behalf of the respondents.

3. In this background, this Court has no option but to dismiss the present Second Appeal for appellants' default under Order XLI Rule 17 of The Code of Civil Procedure, 1908 (Act No.5 of 1908). Liberty is hereby granted that the appellants or their heirs/legal representatives may file an application for re-admission of appeal under Order XLI Rule 19 of The Code of



Civil Procedure, 1908 (Act No.5 of 1908) which has been dismissed for default.

4. Office is directed to return the Lower Court Records after four weeks, if no restoration application is filed within the said period.

(Dr. Anshuman, J)

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