

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.941 of 2017

- 1.1. Anita Agarwal wife of Sri Suresh Kumar Agarwal, daughter of Late Basudev Prasad Khetan and Late Keshri Devi Khetan residing at Flat No. 5H, Shurbhi Apartment, Ghurdaur Road, Surat-395017, State-Gujrat.
2. Sanjay Kumar Khetan,
3. Ajay Kumar Khetan,
4. Rajesh Kumar Khetan,
5. Binay Kumar Khetan, all sons of Late Basudev Prasad Khetan, all residents of Suncity Apartment and Surbhi Apartment, Bhatar, Surat City, Surat, Althan, Gujrat-395017.

... .. Petitioner/s

Versus

1. Chandra Kishore Khetan
2. Moti Lal Khetan,
3. Krishna Kumar Khetan, all sons of Late Prabhu Dayal Khetan, residents of Jamalpur- Gogri, P.O.- Jamalpur Gogri, P.S.- Gogri, District- Khagaria.
4. Ratan Kumar Khetan,
5. Bimal Kumar Khetan, Both sons of Late Basudev Prasad Khetan, Both resident of Jamalpur Gogri, P.S.- Jamalpur Gogri, P.S.- Gogri, District- Khagaria.
6. Shiv Shankar Khetan, son of Late Pannalal Khetan,
7. Padam Kumar Khetan,
8. Prakash Kumar Khetan, Both sons of Sri Shiv Shankar Khetan,
9. Arun Kumar Khetan, son of Late Sitaram Khetan, All resident of Village- Gogri Jamalpur, P.O. and P.S.- Gogri, District- Khagaria.
10. Ramoutar Khetan, son of Late Radha Krishna Khetan, resident of 42, Kabir Kunj Society, Bhatar Road, Surat, Gujrat Pin- 395007.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Abinash Kumar, Adv.
For the Respondent/s : None

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 18-07-2025

Heard learned counsel for the petitioner.

2. Despite case being called out repeatedly, none appears for the respondents. Though the learned counsel for the respondent nos. 1,2 and 3 have been appearing in this case on



previous dates.

3. The petitioner has filed the present petition against order dated 25.02.2017 passed by learned Sub-Judge, Gogri in Title Suit No. 25 of 2009 whereby and whereunder the learned trial court rejected the application dated 28.07.2016 filed for recalling the order dated 15.07.2011 whereby and whereunder the matter proceeded *ex parte* and the petitioners were debarred from filing the written statement.

4. The learned counsel for the petitioner submits that petitioner are defendants before the learned trial court and due to fault of the conducting lawyer, the petitioners were proceeded *ex parte* and they could not file the written statement. The petitioners are simple persons and they were not knowing about the technicalities. Learned counsel further submits that if the Title Suit No. 25/2009 is still pending and if one opportunity is given to the petitioner, they would file the written statement and would not cause any delay in disposal of the Title Suit. Learned counsel further submits that if the petitioners are not allowed to bring on record their written statement and further not allowed to participate in the proceeding, they would suffer irreparable loss and will be greatly prejudiced. Every party should get an opportunity to contest the case on merits and if the petitioners



are not allowed to file the written statement and participate in the proceedings, there would be no real determination of the dispute between the parties.

5. Without going into the merits of the case, the impugned order dated 25.02.2017 is set aside and application of the plaintiffs dated 28.07.2016 is allowed subject to payment of cost of Rs. 10,000/- to contesting party before the learned trial court on first date of hearing.

6. The petitioners are directed to file their written statement within four weeks from the date of receipt /production of copy of this Court before the learned trial court.

7. Further the petitioners are also directed to fully cooperate in the disposal of Title Suit No. 25/09 and not to seek adjournments without sufficient reason and the learned trial court is directed to sternly deal with prayers for unnecessary adjournments.

8. Accordingly, the present petition is allowed.

(Arun Kumar Jha, J)

anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.07.2025
Transmission Date	N/A

