

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1686 of 2017

Gunjan Kumar Singh Son of Chandra Mohan Singh Resident of Village-Banshi Purandaha Police Station-Dhamdaha, District-Purnea, at Present residing Within the campus of Mol Babu Hata In Mohalla-Madhubani, Police Station-K.Hat, District-Purnea.

... .. Petitioner/s

Versus

1. Sunil Kumar Singh Son of Late Bishwanath Singh, Resident of Village-Bhattatar Chakla, Police Station-Barhara, District-Purnea.
2. Sanjeev Kumar Suman Son of Mangan Lal Yadav.
3. Soni Suman Wife of Sanjeev Kumar Suman. Both residents of Jhuni Kala P.S.-K.Nagar, District-Purnea.
4. Shiv Narayan Yadav Son of late Chhoti Lal Yadav, Resident of Village-Mirchaibari, P.S.-Janki Nagar, District-Purnea.
5. Suresh Prasad sah Son of Sita Ram Sah, Resident of Village-Tilkapatti, Chandpur, P.S.-Falka, District-Katihar, at Present Resident of Sant Kabiir Nagar, Court Station, Purnea, P.S.-K. Hat. District-Purnea.
6. Arun Kumar Yadav Son of late Kriti Yadav, Resident of Bhokraha, P.S.-Terhagachhi, District-Kishanganj, at Present resident of Sant Kabir Nagar, Court Station, Purnea, P.S.-K. Hat, District-PURnea.
7. Baski Prasad Son of late Saryu Prasad, Resident of Sant Kabir Nagar, Court Station PURnea P.S.-K.Hat, District-Purnea.
8. Rukmani Devi Wife of Anil Kumar Sah, Resident of Ghosai, P.S.-Chausa, District-Madhepura, Presently residing at Sant Kabir Nagar, Court Station, P.S.-K.Hat, District-Purnea.
9. Indu Devi Wife of Kapildeo Yadav, Resident of Sant Kabir Nagar Court Station P.S.-K.Hat, District-Purnea.
10. Bina Devi Wife of Ganesh Prasad Yadav, Resident of Sant Kabir Nagar, Court Station, P.S.-K.Hat, District-Purnea.
11. Chandrakala devi Wife of Deo Narayan Yadav,
12. Chandhala Devi Wife of Mahendra Prasad Yadav. Both Respondent Nos. 11 and 12 are Resident of Village-Mahikhand, P.S.-Barkara Kothi, District-Purnea.
13. Anoj Kumar Akela Son of Deo Narayan Prasad Yadav, Resident of Sant Kabiir Nagar, Court Station, P.S.-K.Hat, District-Purnea.
14. Kaushalya Devi Wife of Parmeahwar Prasad, Resident of Kosi Colony, Purnea, P.s.-K.Hat, District-Purnea.
15. Satya Narayan Sah Son of late Lachu Sah, Resident of Dibra Bazar, P.S.-Barhara Kothi, District-Purnea.
16. Chhaya Bhagat Wife of Arun Kumar Bhagat, Resident of Chopra Bazar, P.S.-Janki Nagar, District-Purnea.
17. Rajni Devi Wife of Manoj Kumar Roy, Resident of Sant Kabir Nagar, Court



Station, P.S.-K.Hat, District-Purnea.

18. Rukmani Devi Wife of Jay Prakash tRamani, Resident of Purnea College Campus, P.s.-K.Hat, District-Purnea.
19. Babita Devi Wife of Chandra Kishore Yadav, resident of Ranipat, P.S.-Kumarkhan, District-Madhepura, at Present resident at Sant Kabiir Nagar, Court Station, P.S.-K.Hat, District-Purnea.
20. Amit Kumar W/o Dinesh Kumar Yadav, Resident of Court Station, P.S.-K.Hat, District-Purnea.
21. Benu Rani W/o Mithilesh Kumar, Resident of Purnea College Chowk, P.S.-K.Hat, District-Purnea.
22. Ranjana Singh Wife of Dr. Niraj Kumar Singh residing near Indira Gandhi Stadium, European Colony, P.S.-K. hat, District-Purnea.
23. Ranjana Devi Wife of Manoj Kumar, resident of Bhalni, P.O.-Gangapur, P.S.-Murliganj, District-Madhepura, at Present residing at Sant Kabiir Nagar, Court Station, P.S.-K. Hat, District-Purnea.
24. Yogmaya Devi Wife of Ajoy Kumar Mandal, resident of Burhiya Gola, P.S.-Sarsi, District-Purnea.
25. Amir Chand Ramani Son of Ramdeo Ramani, Resident of Nipaniya Santhal Tola, P.S.-Sarsi, District-Purnea.
26. Binod Kumar Paswan Son of Gorakh Paswan, Resident of Nipaniya, P.S.-Barhara Kothi, District-Purnea.
27. Ashok Kumar Mahto Son of late Ram Dulam Mahto.
28. Ramsati Devi Wife of Ashok Mahto. Both resident of sant Kabiir Nagar, Court Station, Purnea, P.S.-K.Hat, District-Purnea.
29. Rajesh Kumar
30. Deepak Kumar Sons of late Jitendra Mandal Both resident of sant Kabiir Nagar, Court Station, Purnea, P.S.-K.Hat, District-Purnea.
31. Dinesh Roy Son of Kusheshwar Roy, Resident of Ladugarh, P.S.-Jankingar, District-Purnea.
32. Tarun Kumar Son of Saryug Yadav, Resident of Raghunathpur North, P.O.-Maujaha, P.S.-Bhargama, District-Araria.
33. Manoj Sah Son of Masudan sah, Resident of Hathiondaha, P.O.-Bihariganj, P.S.-Bihariganj, District-Madhepura.
34. Ram Kishor Sah Son of late Jagmohan, Resident of Central Bank Road, Banmankhi, P.S.-Banmankhi, District-Purnea.
35. Sachin Kumar Sah Son of late Satya Narayan Sah, Resident of Banmankhi Bus Stand, Ward No. 3, B.S.N.L., P.S.-Banmankhi, District-Purnea.
36. Lalan Prasad Singh Son of late Rajendra Prasad Singh, Resident of Laxmipur, P.S.-Barhara, District-Purnea.
37. Ram Kishor Singh Son of late Om Prakash Singh, Resident of Madhubani, Ward No. 16, P.S.-K.Hat, District-Purnea.
38. Sita Devi Wife of Braj Kishore Bhagar, Both resident of sant Kabiir Nagar, Court Station, Purnea, P.S.-K.Hat, District-Purnea.



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Gyanand Roy, Advocate
For the Respondent No.1: Mr. Surendra Kumar, Advocate
Mr. Ajit Ranjan Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 17-06-2025 Heard learned counsel for the parties.

2. The petitioner is aggrieved by the order dated 15.06.2017 passed by the learned Sub Judge-1st, Purnea in Title Suit No. 66 of 2012 whereby and whereunder the learned trial court rejected the prayer made by the petitioner vide application dated 23.08.2016 for recalling the order dated 02.04.2015 by which the defendant 1st party/petitioner was debarred from filing written statement.

3. Learned counsel for the petitioner submits that the petitioner did not, deliberately or willfully, avoid filing the written statement. The petitioner appeared before the learned trial court on 14.03.2014 and time was sought for filing the written statement and even on 02.04.2015 an application was filed seeking time for filing written statement. But the same was not allowed and the defendant 1st party/petitioner was debarred from filing written statement. In the meantime, vide order of learned District Judge, Purnea communicated by Memo No. 2866-73 dated 20.06.2015, Title Suit No. 66 of 2012 was



ordered to be transferred to the court of learned Sub Judge, Dhamdaha. Further vide order dated 11.09.2015 of learned District Judge, Purnea issued vide Memo No. 4547-49, record of Title Suit No. 66 of 2012 was again transferred from the court of learned Sub Judge, Dhamdaha to the court of learned Sub Judge-I, Purnea and the said record was received on 23.09.2015. The defendant 1st party/petitioner or his counsel were not having any information about transfer and re-transfer of the case and being unaware of the aforesaid developments, the petitioner was not having any information about status of Title Suit No. 66 of 2012. Meanwhile, the petitioner has also fallen ill and after recuperating he traced the record and filed an application for recalling the order dated 02.04.2015 making further prayer for accepting the written statement filed on 22.03.2016. But the prayer of the petitioner was rejected and the said order is under challenge before this Court.

4. Learned counsel further submits that there is no deliberate delay or laches on part of defendant 1st party/petitioner in filing the written statement. Moreover, the defendant 1st party/petitioner should be given an opportunity to contest the case and if the same is not allowed, he will suffer irreparable loss and damage. Trial has not yet started in Title



Suit No. 66 of 2012 and the plaintiff will not suffer any prejudice or inconvenience if the written statement is taken on record.

5. Learned counsel appearing on behalf of plaintiff/respondent no.1 vehemently opposes the submission made on behalf of the petitioner. Learned counsel submits that the petitioner appeared before the learned trial court way back in the year 2014 and for one year, he did not file any written statement and keep on filing time petition. Subsequently, he was debarred and after this debarment, almost one year thereafter, he filed an application for recall of the said order. The petitioner has been sleeping over the matter and has flouted the mandate of the law and did not file written statement within the stipulated period as prescribed under Order 8 Rule 1 of the Code of Civil Procedure. Therefore, the petitioner does not deserve any sympathy from this Court.

6. Having regard to the rival submission of the parties and without going into further details of the matter and considering the fact that every party should get an opportunity to contest the case and adjudication of the matter must be on the merits of the case and mere technicality should not come in the way of administration of justice, the impugned orders dated



02.04.2015 and 15.06.2017 passed by learned Sub Judge-1st, Purnea in Title Suit No. 66 of 2012 are set aside and the application of the petitioner is allowed and written statement filed on 22.03.2016 is directed to be taken on record subject to payment of cost of Rs. 10,000/- to the plaintiff on the first date of hearing before the learned trial court.

7. With the aforesaid observation and direction, the present petition stands allowed.

(Arun Kumar Jha, J)

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