

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.244 of 2021

1. Md. Gayasuddin son of Late Md. Mumtaz resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
2. Md. Ashfaque alias Ashfaque Alam son of Md. Bhola alias Haseeb resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
3. Abdul Khalique alias Md. Khalique son of resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
4. Rashid son of Late Md. Mumtaz resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
5. Md. Mohiuddin alias Mohiuddin son of Late Sadakat resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
6. Md. Ekhlaque alias Ekhlaque Ahmad son of Late Md. Bhola alias Haseeb resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
- 7.1. Rizwana Perween Widow of late Afroz Alam, Resident of Village- Khashia Basti, Muaza- Basantpur, P.S. Araria, District-Araria.
- 7.2. Md. Asad Reza, Son of late Afroz Alam, Resident of Village- Khashia Basti, Muaza- Basantpur, P.S. Araria, District-Araria.
- 7.3. Anas Reza Son of late Afroz Alam, Resident of Village- Khashia Basti, Muaza- Basantpur, P.S. Araria, District-Araria.
- 7.4. Hiba Perween, D/o of late Afroz Alam, Resident of Village- Khashia Basti, Muaza- Basantpur, P.S. Araria, District-Araria.
- 7.5. Zeba Perween, D/o of late Afroz Alam, Resident of Village- Khashia Basti, Muaza- Basantpur, P.S. Araria, District-Araria.
- 7.6. Ayan Raza, Son of late Afroz Alam, Resident of Village- Khashia Basti, Muaza- Basantpur, P.S. Araria, District-Araria.
8. Tanweer Alam son of Late Sabibur Rahman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
9. Nigar Alam alias Md. Nigar Alam son of Late Sabibur Rahman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
10. Imteyaz Alam son of Late Sabibur Rahman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
11. Wasiqur Rahman son of Tajuddin alias Doman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
- 12.1. Md. Wasim Reza, Son of late Wasibur Rahman, Resident of Village- Kharhaiya Basti, ward no. 11, P.O. and P.S. and District- Araria.
- 12.2. Arif Reza, son of late Wasibur Rahman, Resident of Village- Kharhaiya Basti, ward no. 11, P.O. and P.S. and District- Araria.
- 12.3. Nagma Naaz, Wife of Md. Anwarul Islam, Resident of Village- Kharhaiya Basti, ward no. 11, P.O. and P.S. and District- Araria.



- 12.4. Hena Naza Wife of Qamar Rizwan, Resident of Village-Chainpur, P.S. Mahalgaon (Jokihat), District-Araria.
- 12.5. Nageena Naaz, Wife of Tabrej Alam, Resident of Village- Machchela Kelabari, P.S. Mahalgaon (Jokihat), District-Araria.
- 12.6. Shama Naaz, Wife of Ashabuddin, Resident of Village- Ajhwa, Singaarmohri, P.S. Jokihat, District-Araria.
13. Md. Aslam alias Aslam son of Late Md. Tauheed Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
14. Md. Azam alias Azam son of Late Md. Tauheed Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
15. Md. Mokarram Alias Mokarra son of Late Md. Tauheed Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
16. Tarique Anwar son of Late Md. Tauheed Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
17. Md. Quasim son of Tahir resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
18. Md. Manzar alias Manzar son of Late Md. Yaqoob resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
19. Md. Rabban Alam alias Md. Rabban son of Late Md. Yaqoob resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
20. Md. Rumman Alam alias Md. Rumman son of Late Md. Yaqoob, resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
21. Naiyer Alam alias Naiyer Alam son of Late Md. Yaqoob resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
22. Md. Mojahid Alam son of Late Md. Aiyub resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
23. Md. Jawed Alam son of Late Md. Aiyub resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
24. Md. Saifur Rab alias Saifur Rab son of Md. Khalilur Rahman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
25. Abdur Rab son of Md. Khalilur Rahman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
26. Jannishar Akhtar son of Late Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
27. Md. Shahid Anwar alias Shahid Anwar son of Late Wahidul Qamar resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
28. Md. Jamal Nasir alias Jamal son of Late Wahidul Qamar resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
29. Md. Salik alias Salik son of Late Wahidul Qamar resident of Village



Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.

30. Md. Tufail alias Tufail son of Late Wahidul Qamar resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
31. Md. Mukhtar alias Mukhtar son of Late Abdul Ghafoor resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
32. Chintu alias Md. Modasir Alam son of Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
33. Dilnawaz Shabbir alias Md. Arbaz Alam son of Md. Shabiir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
34. Fatima Begum alias Bibi Fatima daughter of Late Matiur Rahman son of Late Ziafat Hussain resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
35. Nargir Begum alias Bibi Nargis daughter of Late Matiur Rahman son of Late Ziafat Hussain resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
36. Md. Minhaj alias Mehar son of Late Md. Yaqoob resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
37. Md. Amber Alam son of Late Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.

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Versus

1. The State of Bihar through the Collector, Araria.
2. The Deputy Collector Land Reforms, Araria.
3. Sarwar Alam son of Late Shafique Ahmad resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
4. Shagufta Perween daughter of Late Md. Tauhid Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
5. Saista Perween daughter of Late Md. Tauhid Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
6. Sumaiya Perween daughter of Late Md. Tauhid Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
7. Ummati Khatoon daughter of Late Md. Tauhid Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
8. Md. Pappu Alam son of Late Shams Ara Khatoon resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
9. Md. Lal Alam son of Late Shams Ara Khatoon resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
10. Bibi Bechni daughter of Late Shams Ara Khatoon resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
11. Md. Khurshid Alam son of Late Md. Aiyub resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.



12. Most. Bibi Mustari daughter of Late Md. Aiyub resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
13. Bibi Morshida Khatoon daughter of Late Md. Aiyub resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
14. Bibi Rajda Khatoon daughter of Late Md. Aiyub, resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
15. Bibi Sajada Khatoon daughter of Late Md. Aiyub resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
16. Bibi Nahida Khatoon daughter of Late Md. Aiyub resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
17. Bibi Nilofar Khatoon daughter of Late Md. Aiyub resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
18. Bibi Wazada Khatoon daughter of Late Md. Aiyub, resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
19. Bibi Sanjeda Khatoon daughter of Late Md. Aiyub resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
20. Bibi Nazmin Begum daughter of Late Yakooob resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
21. Bibi Mehzabi Begum daughter of Late Yakooob resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
22. Bibi Mesuda Khatoon alias Bibi Sauda Khatoon daughter of Late Yakooob resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
23. Bibi Rashida daughter of Late Yakooob resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
24. Bibi Musarrat Jahan daughter of Late Yakooob resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
25. Md. Mansoor Alam son of Late Bibi Badura resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
26. Md. Ghayas son of Late Bibi Badura resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
27. Md. Zahoor son of Late Bibi Badura resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
28. Abdul Kalam son of Late Bibi Badura resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
29. Bibi Rabia Khatoon daughter of Late Bibi Badura resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
30. Bibi Rehana daughter of Late Bibi Badura resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
31. Md. Ashab son of Late Bibi Shakila resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
32. Md. Shabaj Alam son of Late Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.



33. Bibi Ruhea Yas daughter of Late Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
34. Bibi Naila Yas daughter of Late Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
35. Md. Modasir Alam son of Late Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
36. Md. Abrar Alam son of Late Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
37. Md. Shahil son of Late Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
38. Md. Arbaj Alam son of Late Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
39. Bibi Salma daughter of Late Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
40. Bibi Soib Khatoon daughter of Late Md. Shabbir Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
41. Md. Jumna son of Late Roshan Ara resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
42. Md. Tanweer son of Late Roshan Ara resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
43. Md. Moil son of Late Roshan Ara resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
44. Jahan Ara daughter of Late Gafoor Ahmed resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
45. Alam Ara daughter of Late Gafoor Ahmed resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
46. Kari daughter of Late Gafoor Ahmed resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
47. Halima daughter of Late Gafoor Ahmed resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
48. Rumana daughter of Late Gafoor Ahmed resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
49. Ifratun Nishan daughter of Late Khalilur Rahman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
50. Yasmin daughter of Late Khalilur Rahman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
51. Sahin daughter of Late Khalilur Rahman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
52. Parwin daughter of Late Khalilur Rahman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
53. Jasmin daughter of Late Khalilur Rahman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
54. Noshin daughter of Late Khalilur Rahman resident of Village Khashia



Basti, Mauza Basantpur, Police Station Araria, District Araria.

55. Most. Mustari Begum wife of Wahidur Kamar resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
56. Bibi Khurshida daughter of Wahidur Kamar resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
57. Bibi Wahida daughter of Wahidur Kamar resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
58. Bibi Sayeeda daughter of Wahidur Kamar resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
59. Bibi Chamki daughter of Wahidur Kamar resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
60. Md. Manzoor son of Late Sk. Helaluddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
61. Md. Mahmood son of Late Sk. Helaluddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
62. Bibi Saheeda daughter of Late Sk. Helaluddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
63. Md. Mansoor son of Late Sk. Helaluddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
64. Bibi Sayeeda daughter of Late Sk. Helaluddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
65. Most. Mustari daughter of Late Sk. Helaluddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
66. Bibi Wazeda daughter of Late Sk. Helaluddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
67. Md. Nawed Alam son of Late Md. Masood resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
68. Md. Nihad son of Late Md. Masood resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
69. Massmi daughter of Late Md. Masood resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
70. Most. Rumi Jahan daughter of Late Md. Masood Resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
71. Afarue son of Late Bibi Johra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
72. Zubair son of Late Bibi Johra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
73. Nasim son of Late Bibi Johra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
74. Sohail son of Late Bibi Johra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
75. Nazir son of Late Bibi Johra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.



76. Md. Firoz son of Late Bibi Kamina resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
77. Md. Parwez son of Late Bibi Kamina resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
- 78.1. Bilkis, Wife of late Md. Israrul@ Israel, Resident of Village- Khashia Basti, Mauza- Basantpur, P.S. Araria, District-Araria.
- 78.2. Md. Azhar, Son of Israrul@ Israel, Resident of Village- Khashia Basti, Mauza- Basantpur, P.S. Araria, District-Araria.
- 78.3. Md. Ejaz, Son of late Israrul@ Israel Resident of Village- Khashia Basti, Mauza- Basantpur, P.S. Araria, District-Araria.
- 78.4. Hasan Raza, Son of late Israrul @ Israel, Resident of Village- Khashia Basti, Mauza- Basantpur, P.S. Araria, District-Araria.
- 78.5. Nawab Zakaria, Son of Israrul@ Israel, Resident of Village- Khashia Basti, Mauza- Basantpur, P.S. Araria, District-Araria.
- 78.6. Rabia Basri, D/o of late Md. Israrul@ Israel, Resident of Village- Khashia Basti, Mauza- Basantpur, P.S. Araria, District-Araria.
- 78.7. Ghufrana D/o of late Md. Israrul@ Israel, Resident of Village- Khashia Basti, Mauza- Basantpur, P.S. Araria, District-Araria.
- 78.8. Afsana D/o of Late Md. Israrul@ Israel, Resident of Village- Khashia Basti, Mauza- Basantpur, P.S. Araria, District-Araria.
- 78.9. Ashia, D/o of late Md. Israrul @ Isael, Resident of Village- Khashia Basti, Mauza- Basantpur, P.S. Araria, District-Araria.
79. Bibi Sogra daughter of Late Bibi Kamina resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
80. Bibi Ashghari daughter of Late Bibi Kamina resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
81. Bibi Akhtari daughter of Late Bibi Kamina resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
82. Md. Azhar son of Bibi Khadija resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
83. Md. Athar son of Bibi Khadija resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
84. Bibi Shahbaz daughter of Bibi Khadija resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
85. Md. Khalid son of Late Bibi Sogra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
86. Md. Farooque son of Late Bibi Sogra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
87. Bibi Rehana daughter of Late Bibi Sogra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
88. Bibi Nazma daughter of Late Bibi Sogra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
89. Bibi Rubana daughter of Late Bibi Sogra resident of Village Khashia Basti,



Mauza Basantpur, Police Station Araria, District Araria.

90. Bibi Shahnaz daughter of Late Bibi Sogra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
91. Bibi Shabana daughter of Late Bibi Sogra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
92. Md. Shamim son of Late Bibi Sambola resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
93. Md. Shakir son of Late Bibi Sambola resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
94. Bibi Sayeeda daughter of Late Bibi Sambola resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
95. Bibi Sabara daughter of Late Zeafat resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
96. Bibi Abdi daughter of Late Zeafat resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
97. Arshad son of Late Md. Momtaz resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
98. Bibi Shaheda daughter of Late Md. Momtaz resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
99. Bibi Naheda daughter of Late Md. Momtaz resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
100. Bibi Khalida daughter of Late Md. Momtaz resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
101. Badiuzzma son of Late Sadakat resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
102. Kalam son of Late Sadakat resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
103. Khalid son of Late Sadakat resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
104. Banoo daughter of Late Sadakat resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
105. Abdur Raquib son of Late Bibi Sabila resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
106. Bibi Kubra daughter of Late Bibi Sabila resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
107. Md. Ehtasham son of Late Bibi Anjuman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
108. Bibi Zugni daughter of Late Bibi Anjuman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
109. Md. Anwar son of Late Bibi Anjuman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
110. Most. Manon wife of Tajuddin alias Doman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.



111. Sahnaz Ara daughter of Tajuddin alias Doman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
112. Sahnaz daughter of Tajuddin alias Doman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
113. Bibi Anwari daughter of Tajuddin alias Doman resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
114. Md. Parwez son of Late Zainuddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
115. Md. Tabrez son of Late Zinuddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
116. Bibi Noorsaba daughter of Late Zainuddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
117. Md. Shahjahan son of Late Rashid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
118. Md. Shahnawaj son of Late Rashid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
119. Bibi Shabana daughter of Late Rashid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
120. Md. Kishwar daughter of Late Rashid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
121. Bibi Ruhi daughter of Late Rashid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
122. Bibi Sado Rashida daughter of Late Rashid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
123. Tais Alam son of Late Abdul Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
124. Md. Masoom son of Late Abdul Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
125. Hebzur Rahman son of Late Md. Firoz resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
126. Md. Abid son of Late Abdur Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
127. Bibi Tohfa daughter of Late Abdur Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
128. Bibi Hasmat daughter of Late Abdur Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
129. Darf son of Late Abdur Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
130. Murshid son of Late Shamshul Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
131. Kasif son of Late Shamshul Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
132. Tausif son of Late Shamshul Alam resident of Village Khashia Basti, Mauza



Basantpur, Police Station Araria, District Araria.

133. Bibi Tabassum daughter of Late Shamshul Alam, resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
134. Mahboob Alam son of Late Abdur Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
135. Md. Naushad son of Late Noorjahan resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
136. Md. Shahzad son of Late Noorjahan resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
137. Bibi Zinat daughter of Late Noorjahan resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
138. Bibi Sarwari Khatoon daughter of Late Noorjahan resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
139. Bibi Kausar daughter of Late Abdur Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
140. Israil son of Late Abdur Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
141. Anwar son of Late Abdur Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
142. Akber son of Late Abdur Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
143. Most. Bibi Ibrat Begum daughter of Late Ashik resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
144. Md. Ashraf son of Late Ashik resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
145. Md. Arshad son of Late Ashik resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
146. Bibi Salma daughter of Late Ashik resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
147. Bibi Sadira daughter of Late Ashik resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
148. Nazra daughter of Late Abdur Majid resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
149. Md. Manzer son of Late Mohid Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
150. Md. Quaiser son of Late Mohid Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
151. Md. Ashad son of Late Mohid Alam resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
152. Md. Chunna son of Late Hafiz Nawab resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
153. Md. Munna son of Late Hafiz Nawab resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.



154. Md. Ishrat daughter of Late Hafiz Nawab resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
155. Md. Helal son of Late Sk Idris resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
156. Md. Mustaque son of Late Sk Idris resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
157. Md. Imran son of Late Sk Idris resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
158. Ahmadi widow of Late Siddique resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
159. Bibi Kalila daughter of Late Siddique resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
160. Bibi Noorsadi daughter of Late Bibi Hazra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
161. Md. Ahmed son of Late Bibi Hazra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
162. Bibi Azima daughter of Late Bibi Hazra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
163. Md. Ishafue son of Late Bibi Hazra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
164. Md. Ashab son of Late Bibi Hazra resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
165. Bibi Rahima daughter of Late Bibi Amna resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
166. Bibi Jamila daughter of Late Bibi Amna resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
167. Bibi Mustaquima daughter of Late Bibi Amna resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
168. Bibi Abusa daughter of Late Bibi Amna resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
169. Md. Mansoor Alam son of Late Most. Kitaban resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
170. Md. Musha Khan son of Md. Sabib Khan resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
171. Masoom Raza son of Shafi Ahmad resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
172. Md. Aslam son of Late Sk. Serajuddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
173. Md. Jamal son of Md. Moinuddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.
174. Abdul Quddus son of Late Sk. Saghiruddin resident of Village Khashia Basti, Mauza Basantpur, Police Station Araria, District Araria.

... .. Respondent/s



Appearance :

For the Petitioners	:	Mr. Syed Firoz Raza, Advocate
For the State	:	Dr. Md. Raisul Haque, SC-10
For the Pvt. Respondents:		Mr. Subodh Kumar Jha, Advocate
		Mr. Praveen Kumar Jha, Advocate
		Mr. Chandra Mohan Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
CAV JUDGMENT

Date: 07-01-2025

The present petition has been filed under Article 227 of the Constitution of India by the petitioners seeking deletion of certain statement/claim mentioned in remark column in the decree in Title Appeal No. 57 of 2001 with further relief to set aside the order dated 17.02.2021 passed by the learned Additional District Judge-V, Araria, whereby and whereunder the application filed by the petitioners under Section 152 of the Code of Civil Procedure, 1908 (for short 'the Code') has been disposed of as not maintainable.

02. Briefly stated, the facts of the case, are that the plaintiffs/respondents/petitioners initially filed a suit for declaration of title over Revisional Survey Plot Nos. 3692, 3693 and 3695 of RS Khata No. 871 having an area 38.75 acres of Mauza-Haria, District-Araria and also for declaration that name of the defendant-State recorded in the Revisional Survey *Khatiyan* with respect to suit land was wrong. Initially the suit was filed by eight plaintiffs whereafter on death of one of the



plaintiffs, substitution was made and plaintiff no. 6B was impleaded after death of his predecessor-in-interest, who was original plaintiff no. 6. The present petitioners as well as proforma respondents were initially plaintiffs and successor-in-interest of plaintiffs. Plaintiff no. 6B, Sarwar Alam, was impleaded as respondent no. 68 in Title Appeal No. 57 of 2001 filed against the judgment and decree of Title Suit No. 818 of 1962 in which the judgment was passed on 31.08.1998 and the decree was sealed and signed on 10.09.1998. The decree in the said title suit was to the following effect:

“The suit be and the same is hereby decreed on contest with cost. It is further declared that title of the plaintiffs over the land in suit. It is also further declared that RS Khatiyan entry with respect of land in suit in the name of defendant is wrong”

The aforesaid judgment and decree were challenged by the State of Bihar in Title Appeal No. 57 of 2001, which was dismissed vide judgment dated 11.01.2021 and decree dated 16.01.2021. It transpires from the decree dated 16.01.2021 that the names of respondents, heirs of respondents and remark column were mentioned as part of decree on seven pages. The remarks column of the decree of Title Appeal No. 57 of 2001



mentioned only about the status of all respondents/legal heirs by recording that the name of respondents/legal heirs has been deleted, except for respondent nos. 68, 91 and 92. Against respondent no. 68, in the remarks column of the decree, it has been mentioned as under:

“According to petition filed on 04.1.2021 on behalf of respondent no. 68, the respondent have private partition an area of 14 (Fourteen) Bighas land from the R.S. Plot No. 3693 and an area of 21 decimal from R.S. Plot no. 3692 and an area of 21 decimal from RS Plot No. 3695 under R.S. Khata No. 871 fell to the share of respondent no. 68, namely Sarwar Alam and he has been coming in exclusive peaceful possession.”

Against respondent nos. 91 and 92, it has been mentioned in the remarks column that “All Share purchased by Respondent no. 68”. In the present petition, the incorporation of these facts in the remarks column has been challenged. It also transpires that after the passing the judgment and decree in Title Appeal No. 57 of 2001, an application dated 11.02.2021 has been filed on behalf respondents of title appeal regarding correction in the father’s name of some respondents, name of respondents and also for deletion of the remarks mentioned in



the column of respondent no. 68, which has been dismissed by the learned Additional District Judge-V, Araria vide order dated 17.02.2021, which is also under challenge before this Court.

03. Learned counsel for the petitioners submitted that the petitioners have challenged the incorporation of extraneous material in the decree and the order rejecting the application filed for deletion of this portion from the decree and correcting the names of some of the respondents and the names of father of some of the respondents. The respondent no. 68 in the title appeal, who is respondent no.3 herein, being the main *pairvikar* of the case and taking advantage of his position, surreptitiously filed the application dated 04.01.2021 and the contents of the said application have been incorporated in the decree dated 16.01.2021 of Title Appeal No. 57 of 2001. Further, on 04.01.2021 itself, respondent nos. 97 to 101 filed another application stating that they have purchased part of the suit property from some of the respondents and specifically mentioned that respondent no. 100 and 101 have purchased this property from respondent no. 68 and they prayed for impleadment of their names and addresses as respondent nos. 97, 98, 99, 100 and 101 in the decree of title appeal. Learned counsel further submitted that though no order or adjudication



has been made by the learned first appellate court on the application dated 04.01.2021 filed by Sarwar Alam, plaintiff no. 63/respondent no. 68/respondent no.3, his claim was inserted in the remarks column of the decree in the title appeal. Learned counsel further submitted that no partition ever took place and there was no adjudication to this effect but the respondent no. 3, Sarwar Alam, taking advantage of the fact that he was doing the *pairvi*, finding an opportune time, got a decree in his favour over his claim and such insertion in the decree about the claim of respondent no. 3 herein, is totally illegal and *void ab initio*. Learned counsel further submitted that there has been not a whisper with regard to claim of respondent no. 3 about exclusive title and possession in the judgment dated 11.01.2021 of the title appeal but in the remarks column, the claim of the respondent no. 3 has been inserted through backdoor. Taking advantage of the entry in the remarks column of the decree in the title appeal, Sarwar Alam, respondent no. 3, has been alienating the property mentioned therein whereas no partition has taken between the parties till date. Learned counsel further submitted that even the timing of the application filed by Sarwar Alam is quite pertinent as the said application was filed just seven days prior to the judgment of the title appeal. Learned



counsel further submitted that from perusal of judgments, either of the Title Suit No.818 of 1962 or of the Title Appeal No. 57 of 2001, there is no observation of the either of the courts about title and possession of Sarwar Alam, plaintiff no. 63/respondent no. 68/respondent no.3, which is completely irrelevant and out of context and has been made only to confer advantage on Sarwar Alam and to create dispute between the parties since no partition has taken place amongst them. Learned counsel further submitted that finding certain discrepancy in the decree dated 16.01.2021 about typing mistakes in wrong mentioning of names of father of respondent nos. 1 and 2, name of respondent no. 37 and entering the names of respondent nos. 97 to 101, who were not the parties in Title Suit No. 818 of 1962 nor they were the heirs of the respondents, an application has been filed on behalf of the respondents. In the same application, it has been pointed out that the name of the father of the respondent no. 68 has also been wrongly typed and against the remark column of respondent no. 68, certain typing mistakes have been made and deletion of same has been sought. However, the learned Additional District Judge-V, Araria, merely on submission of the opposite side that the application was not maintainable as the applicants did not prefer the application within three days after



passing of the decree, disposed of the application finding it to be not maintainable. Learned counsel further submitted that this order has also been challenged as the same is a completely erroneous order. There has been not much time gap and the application has been filed within a month of the passing of the decree and the learned first appellate court committed an error of jurisdiction when it refused to make necessary correction in the decree. Learned counsel further submitted that under Section 152 of the Code, the learned first appellate court has ample power to correct the typing mistakes of clerical or arithmetical nature arising therein from any accidental slip or omission at any time by the court either of its own motion or on the application of any of the parties. But the learned first appellate court completely missed the point and did not adhere to the settled principles of law.

04. Learned counsel for the petitioners referred to a decision of Madurai Bench of Madras High Court in the case of *M. Muthukrishnan Vs. Ethirajulu & Ors. (C.R.P. (NPD) (MD) No. 268 of 2007) decided on 05.02.2009* wherein the issue before the learned Single Judge was whether the petition filed under Sections 152 and 153 of the Code to amend the decree in terms of the judgment was maintainable or not and the learned



Single Judge held that the application filed by the petitioner to amend the final decree is maintainable since correction or mistake in the decree can be rectified at any time. The said point was not considered by the learned subordinate court. Learned counsel for the petitioners next relied on the decision of Punjab and Haryana High Court in the case of ***Sampuran Singh (Deceased By L.Rs.) Vs. Nandu & Ors.***, reported in ***AIR 2004 P & H 239*** wherein it has been held that the power of the Court under Section 152 of the Code is not restricted to correction of errors in decree drawn up by ministerial staff only, rather it can be exercised even to correct the Judgments pronounced and signed by the Court. The learned Single Judge held that the test to determine whether the slip or omission is accidental or not, can be gathered from the intention of the Judge in preparing the judgment or order and it has further been held that if there are mistakes which are capable of being rectified and they answer to the description of the mistakes under Section 152 of the Code, the Court should invariably rectify the mistakes and do justice between the parties. Learned counsel further relied on another decision of High Court of Madras in the case of ***Chinna Marudachalam & Anr. vs Chinnaiya Gounder @ Renganna Gounder***, reported in ***1996 SCC OnLine Mad 734*** wherein the



Single Judge Bench of Madras High Court in Para-15 held as under:

“15. I am therefore of the opinion that the petition filed by the respondents herein/defendants under S. 152, C.P.C. after the decree to correct the error is perfectly in order and the Courts are empowered to correct the mistakes under Ss. 151 and 152 of the Code of Civil Procedure. An argument was advanced by Mr. Rajendran that under O. 20 R. 3 of the Code, once a judgment is signed by the Judge, it cannot be altered or added. In my opinion the above Rule expressly provides that a correction can be made under S. 152, C.P.C. and the Rule does not also affect the Court's inherent power under S. 151, C.P.C. Therefore, it is thus manifestly clear that the errors arising from an accidental slip can be corrected subsequently not only in a decree drawn up by a Ministerial Officer of the Court, but even in a judgment pronounced and signed by the Court. It is well settled that the act of the Court should not prejudice any party and Courts have the duty to see that their records are truth and represent the correct state of affairs. In order to prevent such prejudice, Court can always exercise inherent powers. This Court (Sathiadev, J.) also held that there is no time limit for correcting clerical or arithmetical mistake under S. 151 and 152 C.P.C. The said opinion was expressed by the learned Judge in the judgment reported in V.R. Srinivasa Rahavan and others v. Kannammal alias Janaki, by Power Agent N.C. Rajagopal and others (1980 T.L.N.J. 50).”

05. Learned counsel for the petitioners reiterated that



since the claim of respondent no. 3, Sarwar Alam, does not find any mention in the judgment, its incorporation in the decree is completely perverse. Similarly, the learned first appellate court allowing impleadment of certain persons as respondents in the decree, without allowing their application for impleadment in the title appeal, is simply not permissible. Then, not making correction with regard to name of respondents or their fathers' name merely due to fact that the same was not sought to be incorporated within three days of the passing of the decree, could not be appreciated and makes such order unsustainable.

06. Learned counsel for the State as well as learned counsel appearing on behalf of respondent no. 3 vehemently opposed the submission made on behalf of the petitioners. Learned counsel for the respondent no. 3 contended that there is no infirmity in the impugned order dated 17.02.2021 as well as challenge to the averment made in the remarks column of the decree of title appeal. Learned counsel, at the outset, submitted that the present petition is not maintainable as the petitioners have, in fact, challenged the judgment and decree passed by the learned first appellate court and this Court, exercising its power under Article 227 of the Constitution of India, could not entertain such petition. The title appeal was dismissed on merit



and it is not an interlocutory order which could be challenged under Article 227 of the Constitution of India before this Court. Learned counsel referred to the decision of Hon'ble Supreme Court in the case of ***Mohd. Inam Vs. Sanjay Kumar Singhal & Ors.***, reported in ***AIR 2020 SC 3433*** wherein it has been held that in the guise of exercising jurisdiction under Article 227 of the Constitution of India, the High Court cannot convert itself into a court of appeal. It has further been held that though the powers under Article 227 are wide, they must be exercised sparingly and only to keep subordinate courts and Tribunals within the bounds of their authority and not to correct mere errors. On the same proposition, learned counsel further relied on two decisions of Hon'ble Supreme Court in the case(s) of ***Celina Coelho Pereira (Ms) & Ors. Vs. Ulhas Mahabaleshwar Kholkar & Ors.***, reported in ***2010 (1) SCC 217*** [Para-31] and ***Shamshad Ahmad & Ors. Vs. Tilak Raj Bajaj (Deceased) through Lrs. and Ors.***, reported in ***(2008) 9 SCC 1*** [Para-42] wherein the Hon'ble Supreme Court in Para-31 of the decision in the case of ***Ms. Celina Coelho Pereira & Ors.*** (supra) held as under:

“31. In State v. Navjot Sandhu, this Court explained the power of the High Court under Article 227 thus: (SCC pp. 656-57, para 28)



"28. Thus the law is that Article 227 of the Constitution of India gives the High Court the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State Legislature. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the law. The powers under Article 227 are wide and can be used, to meet the ends of justice. They can be used to interfere even with an interlocutory order. However the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High Court, such a source of power, when the High Court itself does not in terms purport to exercise any such discretionary power. It is settled law that this power of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate courts and tribunals within the bounds of their authority and not to correct mere errors. Further, where the statute bans the exercise of revisional powers it would require very exceptional circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory law. It is settled law that the jurisdiction under Article 227 could not be exercised 'as the cloak of an appeal in disguise'."

07. Learned counsel for the respondent no. 3 also



assailed the submission made on behalf of the petitioners about there being accidental omission or slip in the judgment and decree so as to allow the court to invoke its power under Section 151 or 152 of the Code. Learned counsel further submitted that in the case of ***Dwaraka Das Vs. State of M.P. & Anr.***, reported in ***(1999) 3 SCC 500***, the Hon'ble Supreme Court held that correction should be of the mistake or omission which is accidental and non-intentional and does not go to the merits of the case. Provision cannot be invoked to modify, alter or add to the terms of original judgment, order or decree so as to, in effect, pass an effective judicial order and the Hon'ble Supreme Court deprecated the tendency of the lower court in using liberally the provisions of Sections 151 and 152 of the Code to alter original judgment decree or order. On the same proposition, learned counsel further relied on another decision of Hon'ble Supreme Court in the case of ***Jayalakshmi Coelho Vs. Oswald Joseph Coelho***, reported in ***(2001) 4 SCC 181*** wherein the Hon'ble Supreme Court held that non-incorporation in a decree of contents of a petition or plaint such as a memo of agreement between the parties, could not be considered an arithmetical or clerical error or accidental slip and amenable to correction under Section 152 of the Code. The learned counsel



also referred to the decision in the case of *Sampuran Singh (Deceased by LRs.) (supra)* cited by the learned counsel for the petitioners about the scope of Section 152 of the Code.

08. Learned counsel for the respondent no. 3 further submitted that the learned first appellate court only took into consideration the averment made by the respondent no. 68 (respondent no. 3 herein) of the title appeal, bringing on record the fact about the family settlement and the same has been incorporated in the remarks column of the decree and there is nothing wrong in it. Similarly, the amendment/modification/correction sought in the decree after lapse of time for its rectification was rightly not entertained by the learned first appellate court as the same was not maintainable. Thus, the learned counsel submitted that there is no infirmity in the impugned order and the same does not require any interference.

09. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

10. There is preliminary objection of the respondents about maintainability of the present petition. But such objection is simply misconceived as there has been no challenge to the dismissal of the title appeal before this Court. What has been



challenged before this Court is certain errors creeping in the decree and the learned first appellate court refusing to entertain application for correction of such errors. Therefore, the reliance placed by the learned counsel for the respondent no. 3 in the case(s) of ***Mohd. Inam*** (supra), ***Ms. Celina Coelho Pereira & Ors.*** (supra) and ***Shamshad Ahmad & Ors.*** (supra) are not relevant for the purpose of facts of the present case. Moreover, the Hon'ble Supreme Court in the case of ***Shamshad Ahmad & Ors. (supra)*** in Para-42 held as under:

“42. In State v. Navjot Sandhu [(2003) 6 SCC 641 : 2003 SCC (Cri) 1545] this Court reiterated : (SCC pp. 656-57, para 28)

“28. Thus the law is that Article 227 of the Constitution of India gives the High Court the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State Legislature. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the law. The powers under Article 227 are wide and can be used to meet the ends of justice. They can be used to interfere even with an interlocutory order. However, the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High



Court, such a source of power, when the High Court itself does not in terms purport to exercise any such discretionary power. It is settled law that this power of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate courts and tribunals within the bounds of their authority and not to correct mere errors. Further, where the statute bans the exercise of revisional powers it would require very exceptional circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory law. It is settled law that the jurisdiction under Article 227 could not be exercised 'as the cloak of an appeal in disguise'."

11. Since the issue before this Court is only with regard to the learned first appellate court refusing to make some correction in the decree, the same is always open to be tested before this Court under Article 227 of the Constitution of India. Reliance could be placed on the decision in the case of **Mohd. Inam** (supra) wherein the Hon'ble Supreme Court has clearly held that the supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and



seeing that they obey the law and the powers under Article 227 must be exercised sparingly and only to keep subordinate courts and Tribunals within the bounds of their authority. So, the objection of the learned counsel for the respondents to the maintainability of the present petition is not sustainable and the same is rejected.

12. Section 152 of the Code reads as under:

“152. Amendment of judgments, decrees or orders.—Clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.”

The legal position about Section 152 of the Code has been made clear by the Hon’ble Supreme Court in the case of **Jayalakshmi Coelho (supra)** in its Para-13, which reads as under:

“13. So far as the legal position is concerned, there would hardly be any doubt about the proposition that in terms of Section 152 CPC, any error occurred in the decree on account of arithmetical or clerical error or accidental slip may be rectified by the court. The principle behind the provision is that no



party should suffer due to mistake of the court and whatever is intended by the court while passing the order or decree must be properly reflected therein, otherwise it would only be destructive to the principle of advancing the cause of justice. A reference to the following cases on the point may be made:

The basis of the provision under Section 152 CPC is found on the maxim actus curiae neminem gravabit i.e. an act of court shall prejudice no man (Jenk Cent-118) as observed in a case reported in Assam Tea Corpn. Ltd. v. Narayan Singh [AIR 1981 Gau 41] . Hence, an unintentional mistake of the court which may prejudice the cause of any party must be rectified. In another case reported in L. Janakirama Iyer v. P.M. Nilakanta Iyer [AIR 1962 SC 633] it was found that by mistake the words “net profit” were written in the decree in place of “mesne profit”. This mistake was found to be clear by looking to the earlier part of the judgment. The mistake was held to be inadvertent. In Bhikhi Lal v. Tribeni [AIR 1965 SC 1935] it was held that a decree which was in conformity with the judgment was not liable to be corrected. In another case reported in Master Construction Co. (P) Ltd. v. State of Orissa [AIR 1966 SC 1047 : (1966) 17 STC 360] it has been observed that arithmetical mistake is a mistake of calculation, a clerical



mistake is a mistake in writing or typing whereas an error arising out of or occurring from accidental slip or omission is an error due to careless mistake on the part of the court liable to be corrected. To illustrate the point, it has been indicated as an example that in a case where the order may contain something which is not mentioned in the decree would be a case of unintentional omission or mistake. Such omissions are attributable to the court which may say something or omit to say something which it did not intend to say or omit. No new arguments or rearguments on merits are required for such rectification of mistake. In a case reported in Dwaraka Das v. State of M.P. [(1999) 3 SCC 500] this Court has held that the correction in the order or decree should be of the mistake or omission which is accidental and not intentional without going into the merits of the case. It is further observed that the provisions cannot be invoked to modify, alter or add to the terms of the original decree so as to in effect pass an effective judicial order after the judgment in the case. The trial court had not granted the interest pendente lite though such a prayer was made in the plaint but on an application moved under Section 152 CPC the interest pendente lite was awarded by correcting the judgment and the decree on the ground that non-awarding of the interest pendente lite was



an accidental omission. It was held that the High Court was right in setting aside the order. Liberal use of the provisions under Section 152 CPC by the courts beyond its scope has been deprecated. While taking the above view this Court had approved the judgment of the Madras High Court in Thirugnanavalli Ammal v. P. Venugopala Pillai [AIR 1940 Mad 29 : (1939) 2 MLJ 751] and relied on Maharaj Puttu Lal v. Sripal Singh [AIR 1937 Oudh 191 : ILR 12 Luck 759] . Similar view is found to have been taken by this Court in a case reported in State of Bihar v. Nilmani Sahu [(1996) 11 SCC 528] where the Court in the guise of arithmetical mistake on reconsideration of the matter came to a fresh conclusion as to the number of trees and the valuations thereof in the matter which had already been finally decided. Similarly in the case of Bai Shakriben v. Special Land Acquisition Officer [(1996) 4 SCC 533] this Court found omission of award of additional amount under Section 23(1-A), enhanced interest under Section 28 and solatium etc. could not be treated as clerical or arithmetical error in the order. The application for amendment of the decree in awarding of the amount as indicated above was held to be bad in law.”

13. Further, Paragraph-6 of decision in the case of



Dwaraka Das (supra) is quite illuminating on the scope of provisions of Section 152 of the Code, which reads as under:

“6. Section 152 CPC provides for correction of clerical or arithmetical mistakes in judgments, decrees or orders of errors arising therein from any accidental slip or omission. The exercise of this power contemplates the correction of mistakes by the court of its ministerial actions and does not contemplate of passing effective judicial orders after the judgment, decree or order. The settled position of law is that after the passing of the judgment, decree or order, the court or the tribunal becomes functus officio and thus being not entitled to vary the terms of the judgments, decrees and orders earlier passed. The corrections contemplated are of correcting only accidental omissions or mistakes and not all omissions and mistakes which might have been committed by the court while passing the judgment, decree or order. The omission sought to be corrected which goes to the merits of the case is beyond the scope of Section 152 for which the proper remedy for the aggrieved party is to file appeal or review application. It implies that the section cannot be pressed into service to correct an omission which is intentional, however erroneous that may be. It has been noticed that the courts below have been liberally construing and applying the



provisions of Sections 151 and 152 of the CPC even after passing of effective orders in the lis pending before them. No court can, under the cover of the aforesaid sections, modify, alter or add to the terms of its original judgment, decree or order. In the instant case, the trial court had specifically held the respondent-State liable to pay future interest only despite the prayer of the appellant for grant of interest with effect from the date of alleged breach which impliedly meant that the Court had rejected the claim of the appellant insofar as pendente lite interest was concerned. The omission in not granting the pendente lite interest could not be held to be accidental omission or mistake as was wrongly done by the trial court vide order dated 30-11-1973. The High Court was, therefore, justified in setting aside the aforesaid order by accepting the revision petition filed by the State.”

14. Now, coming to the facts of the case. Admittedly, the application filed by respondent no. 3 remained on record and no orders were passed on it. It was not something intended to be included in the decree since there was no finding about it in the judgment of the title appeal or even in the judgment and decree of the title suit. In other words, it was included contrary to the original intention of the learned first



appellate court or the learned trial court. Section 152 of the Code is based on the legal maxim “*actus curiae neminem gravabit*”, i.e., ‘an act of court shall prejudice none’. Therefore, an unintentional mistake of the court which may prejudice the cause of any party, must be rectified as observed in the case of **Jayalakshmi Coelho** (supra). If no orders have been passed on the claim made by the respondent no. 3, its incorporation in the decree was without any reasons and superfluous and, apparently, a manifest error on part of the learned first appellate court. If unintentional mistakes could be rectified, perverse intentional mistakes need to be rectified with more promptitude. It is apparent that the insertion under challenge made in the decree is based on extraneous material which should not have been made in the first place. Even from the application dated 04.01.2021 filed by respondent no. 3, it is evident that no specific prayer has been made in the said application and the same was filed with prayer to keep the same on record. It appears that the learned first appellate court went extra length to incorporate the averment of the said application in remarks column of the decree against respondent no. 68 (respondent no. 3 herein) of the title appeal.

15. Similarly, disallowing the rectification in the



names of some of the respondents or in names of father of some of the respondents or incorporating such persons as respondents who were not originally party to the title suit or were not impleaded during the proceedings of the title appeal, shows the learned first appellate court passed the order with a close mind without considering the ramifications. If no orders have been passed on impleadment of respondent nos. 97 to 101, their incorporation as party respondents for the first time in the decree of title appeal is simply illegal. Similarly, learned first appellate court not allowing the correction in the names of the some of the respondents or in the names of deceased father of some of the respondents is beyond comprehension. The learned first appellate court overlooked the settled proposition of law that procedural laws are primarily meant to do justice between the parties and are not used to frustrate the cause of justice or to circumvent it.

16. In the light of discussion made here-in-before, I have no hesitation in holding that the learned first appellate court committed gross error of jurisdiction when it refused to allow the application dated 11.02.2021 and passed the impugned order dated 17.02.2021 and refused to make correction in decree as discussed here-in-before and hence, the order dated



17.02.2021 passed by the learned first appellate court is set aside. In the result, the application dated 11.02.2021 filed by the petitioners stands allowed.

17. Accordingly, the present petition stands allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	AFR
CAV DATE	03.12.2024
Uploading Date	08.01.2025
Transmission Date	NA

