

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.402 of 2023

1. Firoz Alam Son of late Mubarak Hussain Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
2. Parvez Alam, Son of Late Mubarak Hussain Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
3. Mahfooz Alam, Son of Late Mubarak Hussain Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
4. Arif Jamal Ansari, Son of Late Mubarak Hussain Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
5. Faisal Alam, Son of late Mubarak Hussain Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
6. Faiz Alam, Son of late Mubarak Hussain Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
7. Tarannum Shahin, Daughter of late Mubarak Hussain Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
8. Anjum Shahin, Daughter of late Mubarak Hussain Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
9. Mehrun Nisa, Wife of Late Mubarak Hussain Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.

... .. Petitioner/s

Versus

1. Md. Suleman Son of Late Md. Usman Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
2. Kaniza Khatoon, Wife of Md. Suleman Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
3. Zaheeruddin @ Jawahir, Son of Late Md. Hafiz Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
4. Firoz Akhtar, Son of Late Noor Akhtar @ Lalu Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
5. Afroz Akhtar, Son of Late Noor Akhtar @ Lalu Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
6. Tamanna Praveen, Daughter of late Noor Akhtar @ Lalu Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
7. Ishart Praveen, Daughter of Late Noor Akhtar @ Lalu Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
8. Shahnaz @ Nanhi, Daughter of late Safiur Rahman @ Moga Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
9. Praveen, Daughter of Late Safiur Rahman @ Moga Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
10. Chanda, Daughter of late Safiur Rahman @ Moga Resident of Mohalla-



Karim Chak, P.S.- Chapra Town, District- Saran.

11. Nitu, Daughter of Late Safiur Rahman @ Moga Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.
12. Rinku, Son of late Safiur Rahman @ Moga Resident of Mohalla- Karim Chak, P.S.- Chapra Town, District- Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rana Ishwar Chandra, Advocate
For the Respondent/s : Mr.Shahzad Hassan Khan, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

9 08-08-2025

I.A. No. 02 of 2025

The instant interlocutory application has been filed on behalf of the petitioners for expunging the name of respondent no. 3 from the record and bringing on record his heirs/legal representatives.

2. Learned counsel for the petitioners submits that respondent no. 3 Zaheeruddin @ Jawahir passed away on 10.06.2025 leaving behind his heirs/legal representatives whose details have been mentioned in paragraph 2 of the interlocutory application. Learned counsel further submits that there is no delay or laches in moving the interlocutory application for substitution.

3. In the light of averments made in the interlocutory application as well as submission made on behalf of the petitioners, I.A. No. 02 of 2025 is allowed.

4. Let the name of respondent no. 3 be deleted from



the record and be substituted by his heirs/legal representatives as mentioned in paragraph 2 of the interlocutory application.

C. Misc. No. 402 of 2023

5. Learned counsel for the petitioners submits that earlier also Co-ordinate Bench ordered for issuance of notice upon respondent nos. 1 and 2 only as they are the contesting party. Respondent no. 3 was a proforma party and as such there is no requirement of issuance of notice upon newly substituted respondents.

6. In the light of submission of learned counsel for the petitioners, notice upon newly substituted respondents is dispensed with at the risk of the petitioners.

7. Perusal of record shows in paragraph 2 of the order dated 26.03.2025 in place of 'Misc. Case No. 79/2021', 'Misc. Case No. 79/2001' has wrongly been typed.

8. Accordingly, the order dated 26.03.2025 is modified only to the extent that in place of 'Misc. Case No. 79/2001', it will be read as 'Misc. Case No. 79/2021'.

9. Learned counsel for the petitioners submits that the present petition may be disposed of by issuing direction to the learned trial court to dispose of Misc. Case No. 79 of 2021 within a short time frame since Execution Case No. 02 of 2020



has been stayed till disposal of Misc. Case No. 79 of 2021. Learned counsel further submits that the petitioners of Misc. Case No. 79 of 2021, who are respondent nos. 1 and 2, are not adducing their evidence and the matter has been running at the stage of evidence of the petitioners since 2023.

10. Learned counsel appearing on behalf of respondent nos. 1 and 2 have no objection to such prayer of the petitioners.

11. Further, perusal of record shows a report has been received from learned Civil Judge (Jr. Div.)-I, Saran at Chapra about present stage of Misc. Case No. 79 of 2021 but it appears that in the report the learned Civil Judge (Jr. Div.)-I, Saran at Chapra has not furnished the likely time needed for disposal of Misc. Case No. 79 of 2021.

12. Having regard to the aforesaid facts and circumstances, learned Civil Judge (Jr. Div.)-I, Saran at Chapra is directed to take immediate steps for disposal of Misc. Case No. 79 of 2021 and dispose it of preferably within three months from the date of receipt/production of a copy of this order and the learned trial court would not grant unnecessary adjournment to the parties considering the fact that Execution Case No. 02 of 2020 has been stayed till disposal of Misc. Case No. 79 of 2021



and the Hon'ble Supreme Court in the case of **Rahul S. Shah**
Vs. Jinendra Kumar Gandhi and Others, reported in (2021) 6
SCC 418 has issued direction for disposal of execution cases
within six months.

13. With the aforesaid observation and direction, the
present petition stands disposed of.

(Arun Kumar Jha, J)

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