

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.284 of 2018

1. Sudhir Singh @ Sudhir Kumar and Anr
2. Subodh Singh Both Sons of Late Bishnu Balak Singh Both Resident of Village-Madhurapur, Bichla Tola, Post Office Post Office-Teghra, District-Begusarai,

... .. Petitioner/s

Versus

1. Shiv Balak Singh and Ors Son of Late Radhey Singh, Both Resident of Village-Madhurapur, Bichla Tola, Post Office Post Office-Teghra, District-Begusarai,
- 2.1. Veena Devi Wife of Late Ram Kumar Singh, Resident of Village - Meghaul, Police Station - Kodabandpur, Post Office - Meghaul, District- Begusarai.
- 2.2. Chanda Dev i Wife of Batohi Singh, Resident of Village - Patailiya, Post Office - Patailiya, Police Station - Bibhutipur, District- Samastipur.
- 2.3. Bibha Devi Wife of Pappu Singh Resident of Village Shitalpur, Post Office - Shitalpur, Police Station - Shitalpur, District- Vaishali.
- 2.4. Pankaj Kuamr Son of Rajendra Prasad Singh, Resident of Village - Cheriabariyapur, Post Office and Police Station - Cheriabariyarpur, District-Begusarai.
3. Virendra Kumar Rai, Son Ramanuj rai, Resident of Musepur, Post Office-Malipur, District-Begusarai.
4. Rajendra Rai, Son of Ramanuj Rai, Resident of Musepur, Post Office-Malipur, District-Begusarai.
5. Sunaina Devi, Wife of Ram Dular Rai, Resident of Musepur, Post Office-Malipur, District-Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kaushal Kumar Singh
For the Respondent/s : Mr.Ram Sumiran Singh

CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

10 17-11-2025 The present Civil Miscellaneous application has been filed for quashing the order dated 03.11.2017 passed by learned Civil Judge (S.D), Teghra in Title Suit No. 392 of 2012 whereby and whereunder learned Court below was erroneously rejected the prayer of petitioner for recalling order of ex-parte hearing in



the suit, despite showing good and bonafide valid grounds for absence and thereby failed to exercise the jurisdiction vested in.

2. Learned counsel for the petitioner submits that respondent (plaintiff therein) has filed a Title Suit No. 392 of 2012 for declaration of Title over the suit property and cancellation of sale deed executed in favour of petitioner i.e. defendant no. 1 which is executed by defendant no. 2. Learned counsel further submits that on 14.01.2013, a suit was filed in which a summon through nazarat and postal service was sent and ultimately paper publication was made and on 01.11.2013, copy of paper cutting was filed and on that basis, vide order dated 21.02.2015 the case was proceeded ex-parte against the petitioner/defendant. Subsequently, after getting the knowledge of this case, the petitioner/defendant filed a petition to recall the aforesaid order on 18.07.2016 on which after hearing both the parties, the impugned order dated 03.11.2017 was passed by which the petition of the defendant/petitioner has been rejected.

3. Learned counsel appearing on behalf of respondent opposed the above contention of petitioner and submits that despite of full knowledge of the suit, he chose not to appear in the case and deliberately he has delayed the suit proceeding.

4. After hearing both the parties, it came to light that



no service of summon has been received in the case record and as per learned counsel for the petitioner, paper publication was made in the paper 'AAJ' which is not in well circulation in the area concerned where the defendant resides; however, it was opposed by the learned counsel for the respondent.

5. The aforesaid suit has not yet been finally disposed of and presently the same is at the stage of plaintiff's evidence. The defendant no. 1 is essential party for proper and complete adjudication of this case and suit needs to be disposed of on the basis of merit and after considering the rival pleadings and contentions of both the parties but certainly the defendant/petitioner has delayed in entering his appearance.

6. Keeping in view the aforesaid facts, the impugned order is set aside subject to payment of cost of Rs. 10,000/- (ten thousand) payable to the respondent/plaintiff by the petitioner/defendant within a period of one month from the date of receipt/production of this order. Further, learned Trial Court is requested to dispose the matter at the earliest and both the parties are directed to diligently co-operate in the trial.

(S. B. Pd. Singh, J)

Ankit Kumar/-

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