

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.2021 of 2017

1. Sunil Kumar Sharma S/o Sri Mishrilal Sharma, R/o Mohalla- Mauna Sarha Road, P.S. P.O.- Chhapra, District- Saran.
2. Smt. Sarita Devi, W/o Sri Vinod Prasad, R/o Mohalla- Mohan Nagar, P.S. P.O.- Chhapra, District- Saran.
3. Smt. Rina Devi, W/o Sri Dilip Kumar, R/o Mohalla- Mohan Nagar, P.S. P.O.- Chhapra, District- Saran.
4. Parasuram Sah, S/o Raghupat Sah, R/o Mauza- Shivan Tola, P.S. Bairiya, P.O.- Chand Diar, District- Balia At Present R/o Mohalla- Husse Chhapra, P.S. P.O.- Chhapra, District- Saran.

... .. Petitioners

Versus

1. Pankaj Kumar and S/o Late Kapildeo Prasad Srivastava, R/o Mohalla- Dak Bangla Road, P.S. P.O.- Chhapra, District- Saran.
2. Braj Kishore Memorial Trust through Secretary Pankaj Kumar, Dak Bangla Road, P.S. P.O.- Chhapra, Distt.- Saran.
3. Pashupatinath
4. Prem Kumar
5. Madho Prasad Sl. 3 to 5 are sons of Late Ganga Prasad Sah, R/o Mohalla- Sahebganj, Sonarpatti, P.S. P.O.- Chhapra, District- Saran.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate
For the Respondent/s : Mr. Raja Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 19-06-2025

Heard the parties.

2. Petitioner is aggrieved by the order dated 11.09.2017 passed by the learned Sub-Judge-XI, Chhapra in Partition Suit No. 425 of 2016, whereby and and whereunder the learned trial Court rejected the petition dated 04.09.2017 filed by the plaintiffs / petitioners and accepted the written statements



of defendants 1st set / respondents 1st set.

3. Learned counsel for the petitioners submits that the defendants appeared on 01.04.2017 and did not file the written statement within the statutory period of ninety days and filed written statement only on 04.09.2017. Since the written statement has been taken on record against the provisions of order VIII Rule 1 of the Cr.P.C., the order impugned is not sustainable.

4. Learned counsel for the Respondents submits that there is no infirmity in the impugned order and the impugned order is speaking order and it mentions the reasons for accepting the written statement even after the delay.

5. Having perused the record, I do not find any infirmity in the impugned order and submission has been made before the learned trial Court that written statement could not be filed as the learned counsel for the defendants died and the plaintiffs did not produce the basis of the suit which caused delay in filing the written statement. Since the learned trial Court has considered the contention of the parties and thereafter allowed the application of defendants taking the written statement on record, the said order does not need any interference from this Court.



6. The order dated 11.09.2017 is upheld and finding no merit in the present petition, the same is dismissed accordingly.

7. Since it is an old matter, the learned trial Court is directed to expedite the matter at the earliest.

(Arun Kumar Jha, J)

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