

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1913 of 2017**

**In
CIVIL REVISION No.120 of 2017**

=====

Anita Kumari @ Anita Devi wife of Dr. Pranay Raj Sharan Sinha resident of B - 404, Charminar Apartment, Road No. 12, Rajendra Nagar, P.S. Kadamkuan, District - Patna – 800016.

... .. Petitioner

Versus

1. Sri Anand Shankar Singh son of not known to petitioner
2. Jyoti Shankar Singh son of Anand Shankar Singh
3. Niti Shankar Singh son of Anand Shankar Singh
4. Sandhya Devi daughter of Anand Shankar Singh
5. Chitra Devi daughter of Anand Shankar Singh
6. Anuradha Singh daughter of Anand Shankar Singh
7. Anju Kumari daughter of Anand Shankar Singh All residents of Bag BeraColony, Quarter No. 1, Block No. 94/2, Road No. 3 near Kunwar SinghMaidan, Jamshedpur, Jharkhand.
8. Sri Rana Ram Singh son of late Raghubir Singh of mohalla Ramji ChakDigha, P.O. Bataganj, P.S. Digha, District Patna.
9. Sri Bikram Kumar son of Sri Narendra Kumar resident of village Chamgarh, P.O. Jitapur, P.S. Murliganj, District Madhepura.
10. Smt. Panwati Singh wife of Sri Gadadhar Prasad resident of village and P.O. Balua, P.S. Brahampur, District Bhojpur, present residence 252, NewPatliputra Colony, P.S. Patliputra, District Patna.
11. Kumar Anil Singh Son of Late Satya Narayan Singh, Secretary of M/s 1. Nirala Sahkari Grih Nirman Samiti Ltd., resident of Ekawana Kothi, Keshri Nagar P.O. Keshri Nagar, P.S. Rajeev Nagar, Patna.
12. Dr. Bibha Singh, Wife of late Umeshwar Prasad Singh Resident of
1. Shivalayam Kutir, Keshari Nagar Road, P.O.- Keshari Nagar, P.S. PatliputraDistrict- Patna-24
12. Sumi Singh, D/o of late Umeshwar Prasad Singh, Resident of Shivalayam2. Kutir, Keshari Nagar Road, P.O.- Keshari Nagar, P.S. Patliputra District-Patna-24
12. Anurag Singh, Son of late Umeshwar Prasad Singh, Resident of Shivalayam

3. Kutir, Keshari Nagar Road, P.O.- Keshari Nagar, P.S. Patliputra District- Patna-24

... .. Respondents

=====

Appearance :

| | | |
|-------------------------|---|--|
| For the Petitioner/s | : | Mr. N. P. Singh, Sr. Advocate Mr. S. P. Singh, Adv. Mr. Mukund Kumar, Adv. |
| For the Resp. 1 st set: | : | Mr. Rakesh Kumar Singh, Adv. Mr. Shailender Kumar, Adv. |

=====

Acts/Sections/Rules:

Section 5 of the Limitation Act

Cases referred:

Mahant Niranjana Dass v. Shiromani Gurudwara Prabandhak Committee, reported in AIR 1992 SC 492

Raj Kishore Jha vs. State of Bihar & Ors. reported in AIR 2003 SC 4664

Kranti Associates Private Limited & Anr. vs. Masood Ahmed Khan & Ors. reported in (2010) 9 SCC 496

Petition - filed challenging the order in Title suit whereunder the petition filed on behalf of some respondents for substitution of legal heirs of the sole plaintiff in title suit has been allowed.

Petitioner alleged that suit had abated and therefore order allowing substitution was wrong.

Held - The impugned order is conspicuously silent on the aspect of abatement or even the details of delay which was considered and condoned. It is, therefore, evident that the impugned order is a cryptic order which does not show any application of judicial mind and being a completely non-speaking order, such order could not be sustained. (Para 6)

Petition is allowed. (Para 11)

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1913 of 2017

In
CIVIL REVISION No.120 of 2017

=====

Anita Kumari @ Anita Devi wife of Dr. Pranay Raj Sharan Sinha resident of
B - 404, Charminar Apartment, Road No. 12, Rajendra Nagar, P.S.
Kadamkuan, District - Patna - 800016.

... .. Petitioner

Versus

1. Sri Anand Shankar Singh son of not known to petitioner
2. Jyoti Shankar Singh son of Anand Shankar Singh
3. Niti Shankar Singh son of Anand Shankar Singh
4. Sandhya Devi daughter of Anand Shankar Singh
5. Chitra Devi daughter of Anand Shankar Singh
6. Anuradha Singh daughter of Anand Shankar Singh
7. Anju Kumari daughter of Anand Shankar Singh All residents of Bag Bera Colony, Quarter No. 1, Block No. 94/2, Road No. 3 near Kunwar Singh Maidan, Jamshedpur, Jharkhand.
8. Sri Rana Ram Singh son of late Raghubir Singh of mohalla Ramji Chak Digha, P.O. Bataganj, P.S. Digha, District Patna.
9. Sri Bikram Kumar son of Sri Narendra Kumar resident of village Chamgarh, P.O. Jitapur, P.S. Murliganj, District Madhepura.
10. Smt. Panwati Singh wife of Sri Gadadhar Prasad resident of village and P.O. Balua, P.S. Brahampur, District Bhojpur, present residence 252, New Patliputra Colony, P.S. Patliputra, District Patna.
11. Kumar Anil Singh Son of Late Satya Narayan Singh, Secretary of M/s
1. Nirala Sahkari Grih Nirman Samiti Ltd., resident of Ekawana Kothi, Keshri Nagar P.O. Keshri Nagar, P.S. Rajeev Nagar, Patna.
12. Dr. Bibha Singh, Wife of late Umeshwar Prasad Singh Resident of
1. Shivalayam Kutir, Keshari Nagar Road, P.O.- Keshari Nagar, P.S. Patliputra District- Patna-24
12. Sumi Singh, D/o of late Umeshwar Prasad Singh, Resident of Shivalayam
2. Kutir, Keshari Nagar Road, P.O.- Keshari Nagar, P.S. Patliputra District- Patna-24
12. Anurag Singh, Son of late Umeshwar Prasad Singh, Resident of Shivalayam
3. Kutir, Keshari Nagar Road, P.O.- Keshari Nagar, P.S. Patliputra District- Patna-24

... .. Respondents

=====

Appearance :

| | | |
|------------------------------------|---|--|
| For the Petitioner/s | : | Mr. N. P. Singh, Sr. Advocate Mr. S. P. Singh, Adv. Mr. Mukund Kumar, Adv. |
| For the Resp. 1 st set: | : | Mr. Rakesh Kumar Singh, Adv. Mr. Shailender Kumar, Adv. |

=====



CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 16-01-2025

Heard learned senior counsel for the petitioner and learned counsel for the respondents 1st set.

02. The petitioner has challenged the order dated 20.06.2017 passed by the learned Sub Judge-I, Patna in Title Suit No. 512 of 2012, whereby and whereunder the petition filed on behalf of the respondents 1st set for substitution of legal heirs of the sole plaintiff in title suit has been allowed.

03. Learned senior counsel appearing on behalf of the petitioner submits that the sole plaintiff in Title Suit No. 512 of 2012 died on 18.04.2015 and two petitions have been filed on 15.07.2015 and 02.07.2016, respectively for substitution of the legal heirs of sole plaintiff, Leela Devi, in her place. Learned senior counsel further submits that the petition dated 15.07.2015 could not be considered as in the said petition only the husband and sons of the deceased-plaintiff had been sought to be substituted in place of sole plaintiff whereas her daughters were not named as legal representatives. Thereafter, on 02.07.2016, another petition was filed for substitution of the daughters of the deceased plaintiff along with the persons already named in the petition dated 15.07.2015. But the said application has been filed without any application for setting aside the abatement which



had already taken place. Learned senior counsel further submits that the learned trial court did not consider the fact that abatement has already taken place and allowed the application in cryptic manner by just mentioning that limitation is condoned and substitution petition is allowed in the light of facts discussed. Such orders could not be sustained. Learned senior counsel referred to the decision of Hon'ble Supreme Court in the case of ***Mahant Niranjan Dass v. Shiromani Gurudwara Prabandhak Committee***, reported in ***AIR 1992 SC 492***, wherein it has been held that when there is knowledge of death, the application filed beyond 90 days of the date of knowledge would result in abatement of the appeal after death of the sole appellant.

04. Learned counsel appearing on behalf of the respondents-1st set submits that there is no infirmity in the impugned order and the same needs to be sustained. Learned counsel further submits that, in fact, first application was filed on 15.07.2015 by the husband and sons of the deceased plaintiff and it was well within time and there was no question of abatement taking place. Subsequently, another application was filed on 02.07.2016 and the said application was supported with a petition filed under Section 5 of the Limitation Act for condonation of delay, if any. Learned counsel further submits that thereafter on 03.12.2016, another petition for setting aside the abatement has



been filed, which was replied by the petitioner. So, it could not be said that there was no abatement petition on record. Learned counsel further submits that the petitioner has been trying to deny the filing of the petition for substitution dated 15.07.2015 by placing the fact that the petition for substitution was filed on 02.07.2016, which is not correct. Learned counsel further submits that the prayer in original application dated 15.07.2015 was for substitution on behalf of the husband and two sons of the deceased-plaintiff whereas the second application dated 02.07.2016 was filed for substitution by adding the names of respondent nos. 4 to 7 in the array of parties as legal heirs of deceased-plaintiff though the application for substitution was already on record and it is a wrong submission that there was no prayer for substitution in the said petition. Thus, learned counsel for the respondents 1st set submits that there is no need to interfere with the impugned order.

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

06. From perusal of the impugned order, it is evident that though the learned trial court has mentioned about the dates on which the applications for substitution have been filed, the impugned order does not mention anything about the petition dated 03.12.2016 purportedly filed for setting aside the



abatement. The impugned order is conspicuously silent on the aspect of abatement or even the details of delay which was considered and condoned. It is, therefore, evident that the impugned order is a cryptic order which does not show any application of judicial mind and being a completely non-speaking order, such order could not be sustained.

07. The Hon'ble Supreme Court in the case of *Raj Kishore Jha vs. State of Bihar & Ors.* reported in *AIR 2003 SC 4664*, has held that the reason is the heartbeat of every conclusion.

08. Further, the Hon'ble Supreme Court in the case of *Kranti Associates Private Limited & Anr. vs. Masood Ahmed Khan & Ors.* reported in *(2010) 9 SCC 496*, has held that reasons in support of decisions must be cogent, clear and succinct. A pretense of reasons or rubber-stamp reasons is not to be equated with a valid decision-making process.

09. The decision in *Kranti Associates Private Limited (supra)* of the Hon'ble Supreme Court stresses upon the importance of reasoned judicial orders and have discussed elaborately why reasoning is the soul and heart of the justice. Therefore, I have no hesitation in holding that the order of the learned trial court is without recording the reasons in support of conclusion arrived at and failure to record the reasons would



make the orders unsustainable. Not recording the reasons in fact amounts to denial of justice whether it is by an administrative authority, quasi judicial body or a judicial body. The aforesaid authorities could not pass orders without assigning reasons in support of their conclusion more so if it is an order by a judicial authority.

10. In such view of the matter, without going into the merits of the case, the impugned order dated 20.06.2017 passed in Title Suit No. 512 of 2012 by the learned Sub Judge-I, Patna is set aside. The matter is remanded to the learned trial court for consideration afresh and both the parties are at liberty to raise all issues before learned trial court which is directed to pass a reasoned and speaking order after hearing the parties.

11. Accordingly, the present petition stands allowed.

(Arun Kumar Jha, J)

Ashish/-

| | |
|-------------------|------------|
| AFR/NAFR | AFR |
| CAV DATE | NA |
| Uploading Date | 18.01.2025 |
| Transmission Date | NA |

