

(1933) 09 PAT CK 0027

In the Patna High Court

Bajranghi Prasad Singh and Others

APPELLANT

Vs

Lal Bihari Singh and Others

RESPONDENT

Date of Decision : 20-09-1933

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, Order 20 Rule 3

Citation : AIR 1933 Patna 643(1)

Hon'ble Judges : Rowland, J

Bench : Division Bench

Judgement

Rowland, J.—The petitioners are the plaintiffs who as sixteen annas proprietors of Tauji No. 4777 brought a rent suit claiming Rs. 1160-13-0 odd as rents and damages in respect of an occupancy holding of 24.93 acres held at a rent of Rs. 380-15-0 odd by defendants 1 to 3 who are here opposite party 5 to 7. During the pendency of the suit, four persons who are now opposite party 1 to 4 applied to be joined as defendants under Order 1, Rule 10 on the ground that they by private and public sales acquired the entire holding in suit. The Court added the names of these persons to the list of defendants provisionally reserving for adjudication at the hearing the question of their alleged right. The 16th May 1933 was the date fixed for final hearing and on that date, pleaders being heard, the Munsif recorded that it was agreed that a decree for the entire claim be passed against the intervenor defendants and the suit be dismissed against the original defendants.

2. In pursuance of this agreement, the Munsif ordered: "Suit decreed accordingly against the intervenor defendant and dismissed as against the rest" and added necessary order as to costs. This order was complete and was signed by the Munsif. Later on the same day, the pleader for the intervenor defendants moved the Munsif to reopen the matter and hear the suit on the merits, as the intervenor defendants were denying that they had consented to the agreed decree. The Munsif without giving notice to the plaintiffs or to the original defendants "to avoid further trouble" cancelled his previous order and fixed 7th

June 1933 for disposal.

3. The Munsif appears to have ignored the provisions of Order 20, Rule 3, Civil P.C. to the effect that a judgment once signed shall not afterwards be altered or added to save as provided by Section 152 or on review. There is no question here of action u/s 152 which is a section providing for the correction of clerical or arithmetical mistakes and slips. What the Munsif has done undoubtedly is to review his own order and if he was disposed to do this he should have followed the provisions of Order 47, Rule 1 which lays down the proper procedure to be followed in such cases. The Munsif could have directed the pleader for the intervenor defendants to advise his clients to file an application for review on which notice should have issued to the opposite party and the Munsif could then in their presence have determined whether a review ought to be granted and the case reopened or not.

4. That is the only way in which he could have reopened the proceedings in a case in which he had already passed and signed his judgment.

The order complained of is therefore manifestly without jurisdiction and is set aside. There will be no order as to costs.