

IN THE HIGH COURT OF JHARKHAND AT RANCHI
C.M.P. No.65 of 2020

Dineshwar Lal Gupta Petitioner
Versus
Sanjay Gupta & Ors. Opposite Parties

CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr. Vishal Tiwary, Advocate
For the Opposite Parties :

07/26.03.2021 The present civil miscellaneous petition is taken up today through Video conferencing.

Learned counsel for the petitioner while referring to paragraphs 11 and 12 of the judgment dated 15th December, 1995 passed by the learned appellate court i.e., Additional District Judge-III, Deoghar in Title Appeal No.04 of 1992 submits that after setting aside the judgment and decree passed by the original court, the matter was remanded to the said court for taking fresh decision after inclusion of two more issues i.e., (i). Whether the suit property is 'stridhan' or not? and (ii). Whether the plaintiffs are the sons from lawfully married wife of Jagdish Lal Sah or not?

It is thus submitted by the learned counsel for the petitioner that the original court vide impugned order dated 20th December, 2019 erroneously rejected the application filed by the petitioner and respondent nos.18, 19 and 20 under Order XXIII Rule 1 of CPC on the ground that the same were not maintainable, as the suit was remanded by the appellate court for passing fresh decision on inclusion of two more issues. In fact, inclusion of the aforesaid two issues by the appellate court for hearing and disposing of the original suit afresh, has not put any legal restraint on the original court to entertain applications filed under Order XXIII Rule 1 of the CPC.

Issue notice to the Opposite Parties Nos.1 to 17 under ordinary process for which requisites etc. must be filed by 9th April, 2021.

Notices are made returnable after six weeks.

(Rajesh Shankar, J.)