

In the Court of Sukul Ram, Sub-Judge-I Cum ACJM, Narkatiaganj

Final Decree No. 4/2017

CIS No.- FD 19/2018

Bibi Zobaida.....Petitioner
V/S

Bibi Zahida & others.....Opposite party

<u>DATE</u>	<u>ORDER</u>	<u>REMARKS</u>
12.03.2026	<p>Both parties filed their attendances. A petition has been filed on behalf of the opposite party under order 9 rule 7 and section 151 of C.P.C on 16.11.2022 which rejoinder has been filed on behalf of decree holder on 01.12.2022. The record today fixed for order on petition of the opposite party dated 16.11.2022.</p> <p>Learned counsel of the opposite party namely Sheikh Wasim came to know from reliable sources that the petitioner has filed final decree case no. 4/2017 against the opposite party and an inquiry this opposite party came to know that the petitioner wrongly and cunningly succeeded to fixed the said case for Ex-parte hearing on 05-11-2019 without serving any notice or summon of the case upon this opposite party either by court Nazarat or by registered post with A/D or by publishing about this case in daily news paper. Summon of this case neither properly served upon this opposite party neither the summon has properly served upon this opposite party by registered post with A.D. The process server has wrongly mentioned the report in Tamila receipt. The registered summon also has not served upon this opposite party had got no knowledge about the proceeding of this case and hence this opposite party could not appear in this case before,</p>	

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Continue 12.03.2026	<p>Hence for the ends of justice and equality the order of Ex-parte hearing dated 05-11-2019 should be recalled and this opposite party be allowed to defend his interest after given sufficient time in this case. Hence this opposite party is being filed this petition. It is therefore, prayed that be pleased to allow this petition and further be pleased to recall the order of Ex-parte dated 05-11-2019.</p> <p>On the other hand a rejoinder has been filed on behalf of petitioner on 01.12.2022 and stated that the petition to recall the order ex-parte hearing dated 05.11.2019 is not maintainable and fit to be rejected. The O.P no. 2 has full knowledge of this present case and he knowingly and deliberately did not appear only with motive to prolong the case. The statement made in para 1 and 2 of the petition is false and fabricated. The petition does not disclose by what means he got knowledge about the present case. Notice through Nazarat and registered post was duly served and lastly paper publication was also done and after satisfaction of service the Court has fixed the case for ex-parte hearing on 05.11.2019. The petition to recall ex-parte hearing has been filed after 3 years from the date fixed for ex-parte hearing. If ex-parte hearing is recalled then petitioner will be in huge loss for which the O.P no. 2 is responsible. It is therefore, prayed that be pleased to reject the petition in the</p>	
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<p>Continue 12.03.2026</p>	<p>interest of justice.</p> <p>Heard both parties and perused the suit record. On perusal of the same it transpires that opposite party has filed a petition under Order 9 Rule 7 and section 151 of C.P.C and prayed to allow this petition and further be pleased to recall the order of Ex-parte dated 05-11-2019. It is a well established law that the disposal of any suit should be conducted after hearing both parties, so that the suit may be disposed of effectively and a multiplicity of suit may be prevented. Therefore, in the interest of justice the order dated 05-11-2019 is hereby recalled and petition of the opposite party dated 16-11-2022 is allowed at a cost or Rs. 1000/-.</p> <p>Put up on 18-04-2026 for further proceedings.</p> <p>Dictated</p> <p>Sub-Judge-I Narkatiyaganj</p>	
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