

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 401 OF 2012

MAZAHABI KHATOON

APPELLANT(S)

VERSUS

MD.WAJAHAT HUSSAIN ALIAS
WAJAHAT HUSSAIN (D) THR LRS.

RESPONDENT(S)

O R D E R

1. Appellant lays challenge to the judgment and order dated 11th February, 2011 passed by the High Court of Judicature at Patna in M.A. No. 39 of 2009 titled "*Md. Wajahat Hussain vs. Mazahabi Khatoon*" whereby the High Court allowed the appeal filed by the respondent(s).

2. A suit being Title Suit No.95/84 on the file of Sub-Judge, Purnea, between the son of one Fazilat Hussain - namely Wajahat Hussain, and the former's wife - Bibi Kaniza Khatoon (defendant no.1) and Mazhabi Khatoon (defendant no.2), appellant herein, was compromised and accordingly, preliminary decree dated 13.03.1986 was passed and confirmed by way of final decree prepared on 16.06.1988.

3. Five years hence, the appellant herein filed Misc. Case No. 9 of 1993 titled *Srimati Majahabi Khatoon vs. Wajahat Hussain*, seeking setting aside of the Compromise Decree which

was dismissed by the Sub-Judge, Purnea by Judgment dated 20.02.1997, on the ground that the same had been filed due to a grudge and internal family dispute. The Compromise Decree was termed genuine, legal and valid. The same was appealed before the 4th Additional District Judge, Purnea, who confirmed the said findings in Judgment dated 19.02.1999.

4. Still further, the matter was carried to the High Court by way of Civil Revision No.994 of 1999 which was ultimately permitted to be withdrawn with liberty to file an appeal along with limitation petition.

5. Title Appeal No.119 of 1999 was then filed, which was eventually allowed on 20.11.2008, having observed that the appellant had been running from pillar to post for redressal of her grievance. It was observed that it was necessary to record evidence of both the parties in so far as the genuineness of the Compromise Decree, as observed by the Sub-Judge in terms of his order dated 03.05.1985, which has not been done. As such the decree was set aside.

6. Wajahat Hussain, the original plaintiff approached the High Court filed M.A. No.39 of 2009 objecting to the setting aside of the Compromise Decree. The High Court found force in his objection. It was observed that Section 96(3) of the Code of Civil Procedure, 1908 bars an appeal from a decree entered upon compromise. M.A.No.39 of 2009 was accordingly allowed. As such, the present appeal.

7. Having heard learned counsel for the parties, we are not inclined to interfere with the impugned judgment and order passed by the High Court.

8. The appeal is dismissed on merits.

9. Pending application(s), if any, shall stand disposed of.

.....J.
(SANJAY KAROL)

.....J.
(SANDEEP MEHTA)

NEW DELHI;
28TH AUGUST, 2025

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 401/2012

MAZAHABI KHATOON

Appellant(s)

VERSUS

WAJAHAT HUSSAIN ALIAS
WAJAHAT HUSSAIN (D) THR LRS.

Respondent(s)

Date : 28-08-2025 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KAROL
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Appellant(s) : Mr. Santosh Kumar, Sr. Adv.
Mr. Madhurendra Sharma, Adv.
Mr. Rajiv R. Mishra, Adv.
Mr. Rajesh Anand, Adv.
Ms. Suruchi Yadav, Adv.
Mr. Yadav Narender Singh, AOR

For Respondent(s) : Mr. D. Bharat Kumar, Adv.
Mr. Gopal Jha, AOR
Mr. Nimish Arjaria, Adv.
Ms. Shireesha Sharma, Adv.
Mr. M. Chandrakanth Reddy, Adv.
Mr. Kumar Arnav Singh Deo, Adv.
Mr. Ram Ji Dwivedi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The appeal is dismissed in terms of signed order.
2. Pending application(s), if any, shall stand disposed of.

(RAJNI MUKHI)
ASTT. REGISTRAR-cum-PS

(ANU BHALLA)
COURT MASTER (NSH)

(Signed order is placed on the file)