

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17457 of 2010

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1. Raghunath Prasad Sinha son of Late Kapildeo Narain Sinha
2. Amritesh Kumar Sinha S/O Raghunath Prasad Sinha
Both at present resident of Sitamarhi, Ward No.11, Mohalla-
Bhawdepur, P.S. and District-Sitamarhi

.... Petitioner/s

Versus

1. Sanjeeb Kumar Sinha son of Late Niranjan Prasad Sinha
2. Bandana Srivastava daughter of Late Niranjan Prasad Sinha
3. Rupam Sinha daughter of Late Niranjan Prasad Sinha
4. Amrita Sinha daughter of Late Niranjan Prasad Sinha
5. Sneha Sinha daughter of Late Niranjan Prasad Sinha
6. Avinesh Kumar Sinha @ Pintu Kumar Sinha son of Late Arun Kumar Sinha
7. Abhishek Kumar Sinha @ Guddu Kumar Sinha son of Late Arun Kumar Sinha
8. Musmat Rekha Sinha wife of Late Arun Kumar Sinha
9. Pammi Kumari @ Anamika Sinha daughter of Late Arun Kumar Sinha
10. Chhoti Kumari @ Monika Sinha daughter of Late Arun Kumar Sinha
All are resident of Sitamarhi Town, Ward No.11, P.S. & District-Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Lal Das, Advocate
: Mr. Yogendra Prasad, Advocate
For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 06-02-2015 In the instant application filed under Article 227 of the Constitution of India the petitioners have challenged the order dated 19th May, 2010 passed by the learned Munsif Sadar, Sitamarhi in Title Suit No.51 of 2005 whereby the prayer of the petitioners to stay the further proceedings of the case till disposal of Partition Suit No.193 of 2004 has been rejected.



In Title Suit No.51 of 2005, the petitioners are defendants in the court below. The plaintiffs/respondents have filed the said suit for decree of easement against the defendants from the premises mentioned in the schedule. According to the plaintiffs, they are owner and title holder of the premises measuring 2 kathas and 8 dhurs. The case of the defendants in the court below was that the defendants have already filed Partition Suit No.193 of 2004 in respect of the property in question in Title Suit No.51 of 2005 and since cause of action and the parties are common in both the cases, subsequent title suit ought to be stayed.

The plaintiffs filed a rejoinder in the court below stating therein that in both the cases all the parties are not common and similar and the reliefs sought for are also different in nature.

Having heard the parties, by the impugned order dated 9th May, 2010 the court below has rejected the application for stay of Title Suit No.51 of 2005.

I do not find any merit to interfere with the impugned order. However, the present application is disposed of with liberty to the petitioners to make appropriate prayer before the competent court for analogous hearing of both the cases which

shall be considered and disposed of by the court below in
accordance with law.

With these observations, this application is disposed
of.

(Ashwani Kumar Singh, J)

Md.S./-

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