

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21981 of 2014

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1. Santosh Sharma Son of Late Sukhdeo Sharma
2. Laxmi Devi @ Laxmi Kumar Wife of Ashok Sharma, daughter of Late Sukhdeo Sharma Both Resident of village - Sheuri, P.O- Manjhoul, P.S- Cheria- Bariarpur, District - Bagusarai.

....Plaintiffs-petitioners

Versus

1. Ramraj Sharma (Mistry)
2. Upendra Sharma (Mistry)
3. Krishanadeo Sharma (Mistry)
4. Dilip Sharma (Mistry) All Sons of Late Mannu Sharma Resident of village - Manjhoul, P.S- Cheria - Bariarpur, District - Bagusarai.
5. Asha Devi Wife of Rampravesh Sharma Resident of village - Manjhoul, P.S- Cheria - Bariarpur, District - Bagusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Ghosarvey

For the Respondent/s : Mr. Amresh Kumar Verma

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

2 09-12-2015 Heard the counsel for the plaintiffs-petitioners and the defendants-respondents.

The present writ application is directed against the order dated 17.04.2014 passed by the learned Munsif, Manjhoul in Title Eviction Suit No. 21 of 2003. The said suit was filed by the plaintiffs for eviction of the defendant(s) on the ground of personal necessity. By the impugned order, the plaintiff's request to make the present case cognate with Title Suit No. 17 of 2000 has been considered and rejected stating that the nature of relief prayed in two suits was entirely different. Title Suit No.

17 of 2000 was filed by the defendant(s) of the present suit for grant of permanent injunction whereas the present suit was filed by the plaintiff(s) (defendant(s) in the title suit) for eviction of the defendant(s) on the ground of personal necessity.

Counsel for the petitioners states that having regard to the facts of the case, the trial court in seisin of the Title Suit No. 17 of 2000, had earlier directed both the suit to be heard together vide order dated 28.04.2010. Rejection of the prayer under the impugned order is therefore bad in law.

The respondents-defendants conversely submitted that the present suit has been filed for eviction of the defendant(s) on the ground of personal necessity. Special procedure is provided to try such dispute.

Obviously, the procedure to be adopted in the suit is different. The trial court has assigned precisely the same reasons for rejecting the prayer. Such matter where there is no breach of any statutory provision should not be entertained by this Court in the writ jurisdiction. The trial court while refusing the prayer has assigned reasons which cannot be said to be entirely erroneous. It appears from the records that both the matters have been assigned to the same court. This is also one of the reasons for not interfering with the order impugned.

Considering thus, this Court finds no merit in this writ application which is accordingly dismissed.

(Kishore Kumar Mandal, J)

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