

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19396 of 2010

=====

1. Jairam Pandey S/O Late Ramashray Pandey R/O Mohalla- K.M. Tank,
Laheriasarai, P.O. And P.S.- Laheriasarai, Distt.- Darbhanga

2. Smt. Indu Pandey W/O Sri Jairam Pandey R/O Mohalla- K.M. Tank,
Laheriasarai, P.O. And P.S.- Laheriasarai, Distt.- Darbhanga

.... Petitioners

Versus

1. Mahipal Yadav S/O Late Lakhshmi Narayan Yadav R/O Mohalla- K.M.
Tank, Laheriasarai, P.O. And P.S.- Laheriasarai, Distt.- Darbhanga

.... Respondent

=====

Appearance :

For the Petitioner/s : Mr. Md.Imteyaz Ahmad

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

4 04-08-2015

Heard counsel for the petitioners.

The petitioners have challenged the legality of the order dated 01.02.2010 passed by the learned Munsif I, Darbhanga in Eviction suit no. 19 of 2003. For better appreciation, this Court would extract hereinbelow the relevant part of the order passed by the learned Munsif rejecting the petition dated 1.2.2010 filed by the defendants.

“Perused the record. From perusal of record, it transpires that this eviction suit has been instituted in the year 2003 and issues were settled on 4.1.2006. In course of trial, evidence of the parties were concluded and since 15.12.2008 this case record is pending for arguments. The facts available on the record shows that the defendant have filed several petition during this period and lastly by order dated 11.1.2010 a petition dated 1.6.2009 filed on



behalf of defendant was rejected as 'not pressed' and subsequently by order dated 23.1.2010 both the parties were directed to conclude their arguments. Subsequently, today this petition has filed. I am agree with the contention of learned counsel for the plaintiff that each case should be decided on its own merit. The stage for calling for documents or filing of document have already passed at this stage. Thus, in the light of forgoing discussions, in my view the petition filed by defendant is only to delay and causing hindrance in speedy disposal of the case and as such it deserved to be rejected on the cost of Rs. 250/- Accordingly, the petition filed on behalf of the defendant is disposed of."

Learned counsel for the petitioners submits that Title suit no. 48 of 2004, and Title Suit No. 168 of 2003 are interconnected. In the interest of justice, the Court ought to have allowed the application for summoning the records of those suits and thereafter heard the matter.

Indisputably, the present suit is pending on the file of the trial court since 2003. The nomenclature of the suit indicates that it is an eviction suit which is required to be disposed of on priority basis. The learned Court below in the impugned order has noticed that the matter was fixed for argument of the parties on 15.12.2008 and with a view to delay the disposal of the case the petitioners-defendants filed few petitions. One of them was considered and rejected and the parties were directed by order

dated 23.1.2010 to conclude the argument within three days. Immediately, thereafter the present petition was filed on 1.2.2010 with the prayer, as noticed in the order.

On a consideration of the submission made in support of the application and after perusal of the impugned order, this Court does not find any material illegality committed by the Court below in passing the impugned order meriting interference by invocation of writ jurisdiction of this court. The same does not suffer from patent illegality either. The application merits to be dismissed.

It is, accordingly, dismissed.

(Kishore Kumar Mandal, J)

Shyam/-

U			
---	--	--	--