

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24308 of 2013

- =====
1. Yugal Kishore Sharma, Son of Late Dhanraj Sharma.
 2. Rajesh Kishore Sharma.
 3. Brajesh Kishore Sharma.
 4. Rupesh Kishore Sharma.

All are sons of Sri Yugal Kishore Sharma, R/o Village- Belchhi, P.S.-
Chandi, District-Nalanda at present resident of Arya Kumar Road, P.S.-
Kadamkuan, in the district of Patna. **-Defendants/Appellants/Petitioners.**

Versus

1. Mahesh Sharma, Son of Late Dhanraj Sharma, R/o Village- Belchhi,
P.S.-Chandi, District-Nalanda at present resident of Arya Kumar Road,
P.S.-Kadamkuan, in the district of Patna.

-Plaintiff/respondent/respondent 1st Set.

2. Rishi Kishore, Son of Mahesh Sharma, R/o Arya Kumar Road
Machhuatoli, P.S. - Kadamkuan, Patna.
3. a. Maduri Sharma, Wife of Dhanesh Sharma.
b. Neha.
c. Sneha , both are daughter of Sri Aunp Singh of Village-Rahui at
present Arya Kumar Road, Machuatoli, P.S.-Kadamkuan, Patna.
d. Rupa Singh, D/o Late Dhanesh Kishore Sharma & Wife of Sri
Prabhash Singh, R/o C-1/162 P.C. Colony Kankarbagh, Patna.
4. Ratnesh Kishore Sharma, S/o Dhanesh Kishore Sharma, R/o Mohalla-
C-1/162 P.C.Colony, Kankarbagh, Patna.
5. Bhupesh Kishore Sharma, Son of Dhanesh Kihore Sharma and R/o C-
1/162 P.C. Colony, Kankarbagh, Patna.
6. Bank of India through its Branch Manager, Frazer Road, Patna.

-Defendants/Respondents/Respondents.

=====

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

7 08-01-2015

Heard the learned counsel for the parties.

The writ application has been filed against the order dated 07.09.2013 passed by the appellate court below in Title Appeal No.138/10, rejecting the petition filed by the appellants under Order 41 Rule 5 C.P.C. praying for stay of the further proceeding of the Execution Case No.03/10.

The facts are not in dispute that after passing of the preliminary decree in a suit for partition, the final decree has also been passed. The final decree has been put to execution and with regard to the two sets of the properties out of the three sets, the delivery of possession has already been effected. The learned counsel for the petitioners has also accepted the said fact. The execution case, however, is proceeding with regard to the properties in the native village of the parties with regard to agricultural land only. From the perusal of the impugned order, it is transparent that the learned court below has noticed that the writ petitioners have been allotted the properties which they prayed to be allotted in their share before the pleader commissioner.

After considering the submissions on behalf of the parties and the facts and circumstances of the case, it is pellucid that the property with regard to which the execution case is still continuing is agricultural land situated in the native village of the parties. The fact has not been denied that with regard to the

two sets of the properties in the town of Patna, the delivery of possession has already been effected and the decree with regard to those properties stood satisfied. The finding by the learned court below that the petitioner has been allotted the properties which he prayed to be allotted in his share has not been controverted either in the writ application or during the submission on behalf of the petitioner. In view of these facts and also in view of the fact that the present property over which the execution case is proceeding is admittedly agricultural land in the native village of the parties, this Court is not persuaded to interfere in the impugned order.

The writ application is, accordingly, dismissed.

At this juncture, the learned counsel for the petitioners has prayed that a direction may be issued to expedite the hearing of the T.A.No. 138/2010 pending in the appellate court below. The learned counsel for the respondents has also raised no objection to the said prayer and has expressed the inclination to cooperate with expeditious disposal of the appeal.

In this view of the matter, the learned appellate court below is directed to expedite the hearing of the title appeal pending since 2010.

(V. Nath, J)

Nitesh/-

U			
---	--	--	--