

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14247 of 2014

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1. Lal Bihari Rai Son of late Bigan Rai

2. Lachhu Rai son of Shiv Balak Rai Both resident of village Veerpur, P.S. Jurawanpur, District - Vaishali.

.... Petitioner/s

Versus

1. Jattu Rai son of late Hazari Rai resident of village - Veerpur, P.S. Jurawanpur, District - Vaishali.

2. Padarath Rai

3. Mahendra Rai

4. Nandak Rai

5. Khaderan Rai All sons of late Bigan Rai resident of village - Veerpur, P.S. Jurawanpur, District - Vaishali, Hajipur.

6. Rameshwar Singh son of late Bishwanath Singh

7. Ratnesh Kumar Singh son of late Mahabir Singh

8. Amresh Kumar Singh Son of Sri Bansropan Singh

9. Ajay Kumar Singh Son of Sri Bansropan Singh

10. Ajit Kumar Singh son of Sri Bansropan Singh Respondent No. 6 to 10 are resident of village Majilishpur, P.S. Mahnar, District Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surya kant Mishra, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 17-10-2016

Heard learned counsel for the petitioner.

Aggrieved by the impugned order by which the learned



court below has turned down the prayer of the defendant-petitioners in the suit for stay of the proceeding of the suit under Section 10 of C.P.C, this application has been filed under Article 227 of the Constitution of India.

Learned counsel for the petitioners has submitted that the learned court below has committed error of jurisdiction in not granting the prayer as made by the defendant-petitioners in view of the fact that earlier T.S. No. 45 of 2011 has been pending between the same parties with regard to the same land.

After considering the submissions and the perusal of the impugned order, it is evident that the learned court below has recorded the finding that the petitioners could not establish the pre-requisites for application of Section 10 C.P.C. In the present application also the plaint of both the suits have not been annexed or produced in order to establish that T.S. No. 154 of 2012 was required to be stayed in view of the pendency of the earlier T.S. No. 45 of 2011. From the perusal of the rejoinder filed by the defendant which has been annexed as Annexure-3, it also appears that the parties as well as the suit property in both the suits are not the same. In this backdrop, this court is not inclined to interdict the impugned order invoking its jurisdiction under Article 227 of the Constitution of India.



The application is, accordingly, dismissed.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
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