

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1203 of 2016

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1. Kamla Devi wife of Late Umeshwar Prasad Singh
 2. Rakesh Kumar Singh
 3. Dilip Kumar Singh
 4. Ajay Kumar Singh All sons of Late Umeshwar Prasad Singh
 5. Rani Devi daughter of Late Umeshwar Prasad Singh All residents of Village + P.O. + P.S. - Naw Kothi, Via - Bakhri, District - Begusarai, presently residing at Nagar Palika Chowk, Near Sadar, Hospital, P.O. + P.S. + District - Begusarai.

.... Appellant/s

Versus

1. Rekha Devi wife of Late Satya Narayan Singh
2. Sunita Devi daughter of Late Satya Narayan Singh
3. Nutan Devi daughter of Late Satya Narayan Singh
4. Sarita Devi daughter of Late Satya Narayan Singh
5. Sujan Devi wife of Late Nand Kishore Singh
6. Ramesh Singh son of Late Nand Kishore Singh
7. Manoj Singh son of Late Nand Kishore Singh
8. Bhola Singh son of Late Nand Kishore Singh
9. Ranjit Singh son of Nand Kishore Singh
10. Pavitri Devi daughter of Nand Kishore Singh
11. Vina Devi daughter of Nand Kishore Singh
12. Satya Vama Devi wife of Krishnadeo Singh
13. Gita Kumari daughter of Krishnadeo Singh
14. Sobha Kumari daughter of Krishnadeo Singh
15. Chandan Kumar Singh son of Krishnadeo Singh
16. Usha Kumari daughter of Krishnadeo Singh
17. Narayan Singh son of Late Anant Singh
18. Premchand Singh son of Sri Satya Narayan Singh
19. Jai Jai Ram Singh
20. Shrawan Singh
21. Pawan Singh All sons of Late Satya Narayan Singh All residents of Village - Sadanandpur, P.S. Balia, District - Begusarai.
22. Ratneshwar Singh son of Late Gita Singh resident of Mauza - Taus, P.S. - Barbiga, District - Munger, presently residing at Kadamkuan, Thakurwari Road, Patna - 3 in front of Hanuman Mandir.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashutosh Ranjan Pandey
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER



3 08-12-2016

Heard learned counsel for the petitioner.

Perused the impugned order dated 31.3.2016, passed by the learned Munsiff 1st Begusarai in Title Suit No. 01 of 1988 whereby the learned court below rejected the application filed by the defendant-petitioner for deciding the question of limitation as preliminary issue under Order 14 Rule 2 CPC.

It appears that the suit was filed in the year 1988 for declaration of title. The application has been filed in the year 2015 for deciding the question of limitation as preliminary issue. So far Order 14 Rule 2 provides that the question of law only can be decided as preliminary issue if it relates to the jurisdiction of the court and if the suit is barred under any law. So far question of limitation is concerned, it is not pure question of law. The same depends on the facts and for deciding the limitation in this case, evidence is necessary. Therefore the court below has held that since issue of limitation is a mixed question of fact and law, it can not be decided as a preliminary issue.

This court in the case of **Umes Narayan Vs Jhati Devi 2012(4) BLJ 61** has held that when there is a question of both fact and law is involved the same cannot be decided as preliminary issue as decision on same would require consideration of evidence.



Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction and accordingly this Civil Misc. Application is dismissed.

(Mungeshwar Sahoo, J)

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