

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15104 of 2010

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Hari Shankar Prasad Sinha, S/O Late Viswanath Prasad, R/O Mohalla-
Vashakhi Ram Lane, Motijheel, P.S.- Town, Distt.- Muzaffarpur

.... Petitioner

Versus

1. Badal Chandra Patra, S/O Late Shankar Das Patra R/O Mohalla-
Mohammadpur Kazi Motijheel, Upper Floor Of Champaran Cycle Store,
P.S.- Town, P.O. & Distt.- Muzaffarpur
2. Lalit Kumar Patra S/O Late Shankar Das Patra R/O Mohalla-
Mohammadpur Kazi Motijheel, Upper Floor Of Champaran Cycle Store,
P.S.- Town, P.O. & Distt.- Muzaffarpur
3. Satyanarayan Lal S/O Late Vishwanath Prasad R/O Mohalla- Ayodhya
Prasad Lane, Champaran House, Motijheel, Muzaffarpur
4. Sanjay Kumar S/O Satya Narayan Lal R/O Mohalla- Ayodhya Prasad
Lane, Champaran House, Motijheel, Muzaffarpur
5. Udy Kumar Patra (Suffering From Mental Disease And Insane Living
Under Guardianship Of Sri Badal Chandra Patra, Respondent No.1) S/O
Late Shankar Das Patra R/O Mohalla- Mohammadpur Kazi Motijheel,
Upper Floor Of Champaran Cycle Store, P.S.- Town, P.O. & Distt.-
Muzaffarpur

.... Respondents

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Appearance :

For the Petitioners : Mr. Manoj Kumar Manoj
For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
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ORAL ORDER

9 12-08-2016 Heard learned counsel for the petitioner as well as

learned counsel for the respondents.

Petitioner, who happens to be the plaintiff before
the learned Lower Court, is aggrieved by an order dated
03.06.2010 passed by Sub-Judge 2nd, Muzaffarpur in Title Suit no.
79 of 2008 whereby and whereunder prayer for repairing of the
building has been rejected.



It is the contention of the petitioner that he happens to be under tenancy since more than 20 years. Furthermore, it has been submitted that respondent nos. 3 and 4 who happen to be his brother and nephew and are purchasers have illegally dismantled the building to some extent with ulterior motive which should be allowed to be repaired at the end of the petitioner in the background of the subsequent development wherein, apart from being tenant, petitioner has negotiated with the owners and in terms thereof are in possession of deed of *mahatnama*. As, the owners failed to execute the sale deed whereupon instant suit for specific performance has been filed. Therefore, the prayer instead of raising under Bihar Building Control Act, has been raised in the present suit.

Learned counsel for the respondent has resisted the claim.

Mere filing of a suit under Specific Performance of Contract Act is not going to give any sort of right, title and interest unless and until so decreed.

Consequent thereupon, the prayer having been made at the end of petitioner in the present suit is not at all found maintainable and is accordingly, rejected. However, the petitioner

will be at liberty to pursue the matter under appropriate forum so identified under proper law so applicable in the facts and circumstances of the case.

(Aditya Kumar Trivedi, J.)

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