

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14615 of 2013

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Phulendra Nath Dubey Son Of Late Rameshwar Dubey Resident Of Mauza -
Nauhatta, P.O. + P.S. Nauhatta, District - Rohtas

.... Petitioner

Versus

1. Smt. Sushila Singh Wife Of Sri Harishankar Singh R/O Village - Ullibanahi,
P.S. Nauhatta, P.O. Nauhatta, District - Rohtas
2. Smt. Sheela Devi Wife Of Ravishankar Singh R/O Village - Ullibanahi, P.S.
Nauhatta, P.O. Nauhatta, District - Rohtas
3. Smt. Kisnawati Devi Wife Of Saligram Singh R/O Village - Ullibanahi, P.S.
Nauhatta, P.O. Nauhatta, District - Rohtas
4. Smt. Urmila Devi Wife Of Satnarayan Singh R/O Village - Ullibanahi, P.S.
Nauhatta, P.O. Nauhatta, District - Rohtas
5. Sunil Kumar Dubey Null R/O Village - Ullibanahi, P.S. Nauhatta, P.O.
Nauhatta, District - Rohtas
6. Santosh Kumar Dubey R/O Village - Ullibanahi, P.S. Nauhatta, P.O. Nauhatta,
District - Rohtas
7. Sanjay Kumar Dubey R/O Village - Ullibanahi, P.S. Nauhatta, P.O. Nauhatta,
District - Rohtas
8. Rukmini Devi Wife Of Ramashray Dubey R/O Village - Ullibanahi, P.S.
Nauhatta, P.O. Nauhatta, District - Rohtas
9. Kumar Abhishek Pratap Singh Son Of Sri Harishankar Singh R/O Mauza -
Ullibanahi, P.S. Nauhatta, P.O. Nauhatta, District - Rohtas
10. Vivek Pratap Singh Son Of Sri Ravi Shankar Singh R/O Mauza - Ullibanahi,
P.S. Nauhatta, P.O. Nauhatta, District - Rohtas
11. Upendra Nath Dubey Son Of Late Rameshwar Dubey R/O Mauza - Nauhatta,
P.O. + P.S. Nauhatta, District - Rohtas
12. Mahendra Nath Dubey Son Of Late Rameshwar Dubey R/O Mauza - Nauhatta,
P.O. + P.S. Nauhatta, District - Rohtas
13. Devendra Nath Dubey Son Of Late Rameshwar Dubey R/O Mauza - Nauhatta,
P.O. + P.S. Nauhatta, District - Rohtas
14. Virendra Nath Dubey @ Dhirendra Dubey Son Of Late Rameshwar Dubey
R/O Mauza - Nauhatta, P.O. + P.S. Nauhatta, District - Rohtas
15. Yogendra Nath Dubey @ Jitendra Nath Dubey Son Of Late Rameshwar Dubey
R/O Mauza - Nauhatta, P.O. + P.S. Nauhatta, District - Rohtas

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Siddharth Harsh, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 06-12-2016



Heard Mr.Siddharth Harsh, learned counsel appearing for the petitioner.

The present application has been filed questioning the legal acceptability of the impugned order passed by the learned District Judge in Civil Miscellaneous Case No.34/2012 filed under Section 24 of the C.P.C. praying for transfer of T.S.No.92/2001,T.S.No.266/2012 and Miscellaneous Case No.09/2012 from the court of Sub Judge –IV to another competent court.

From the perusal of the impugned order, it transpires that the learned District Judge has transferred the Miscellaneous Case No.09/2012 and T.S.No. 266/2012 which were pending before the Sub Judge- IV to the court of Sub Judge-VI, Sasaram which passed the decree in T.S.No.518/1999. It has, however, been also noticed in the impugned order that the T.S.No.92/2001 has been pending before the court of Munsif, Dehri and therefore the prayer for transfer of the said suit to the same court has been turned down.

After considering the submissions and perusal of the materials on record including the impugned order, the fact has not been disputed on behalf of the petitioner that the T.S.No.92/2001 has been filed for seeking relief against the decree passed in earlier



T.S.No. 21/1990. It has also not been disputed that the T.S.No.21/1990 was filed by the plaintiffs including the mother of the plaintiff for declaration of title over the suit properties described therein in the plaint in view of the wrong entry in the survey khatian. This Court has not been persuaded in the backdrop of these facts that the discretion exercised by the learned District Judge under Section 24 C.P.C. refusing the prayer for transfer of T.S.No.92/2001 to the same court, suffers from any illegality or material irregularity, in view of the admitted fact that the nature of T.S.No.92/2001 and the reliefs sought therein are entirely different. This Court is thus not inclined to interfere in the impugned order exercising the jurisdiction under Article 227 of the Constitution of India.

The application is, accordingly, dismissed.

(V. Nath, J)

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