

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No. 1290 of 2017

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1. Suresh Kumar Son of Shiv Pujan Prasad Sah.

2. Shakti Vishal.

3. Gaurab Vishal.

4. Sanni @ Vivek Vishal.

2 to 4 are Soons of Suresh Kumar.

All resident of Village-Hamidpur Tola, Police Station-Deviganj, P.O. Kesariya,
District-East Champaran.

.... Petitioner/s

Versus

Dhananjay Prasad, Son of Late Shiv Pujan Sah, resident of Village-Hamidpur Tola,
Police Station-Deviganj, P.O. Kesariya, District-East Champaran.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anil Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 04-10-2017

By the impugned order, dated 30.06.2017, passed in
Title Suit No. 677 of 2016, learned Sub-Judge-IX, East
Champaran at Motihari has rejected an application filed by the
petitioners, under Section 10 of the Civil Procedure Code (*in short*



'the Code'). The partition suit, bearing Partition Suit No. 300 of 2002, was filed by petitioner No. 1, which was dismissed, on contest, by the judgment, dated 10.06.2016, by learned Sub-Judge-IX, East Champaran at Motihari, against which a title appeal, bearing Title Appeal No. 80 of 2016, is pending in the Court of learned District Judge, East Champaran at Motihari.

2. During the pendency of the title appeal, the respondent has filed Title Suit No. 677 of 2016, claiming his title over a portion of the land in question and also for recovery of possession. It is in that background that the petitioners filed the said application, under Section 10 of the Code, for stay of Title Suit No. 677 of 2016 (Reg. No. 493/2016). The said application has been rejected by the impugned order.

3. On perusal of the impugned order, I find that the court below has rightly recorded that the matter, in issue, in both the suits, is not the same inasmuch as in the earlier suit, the matter, in issue, was whether the parties had unity of title and jointness of title over the suit property, whereas, in the subsequent suit, the matter, in issue, is as to whether the plaintiff of that case has subsisting title over the suit property.

4. I do not find any legal infirmity in the impugned



order, requiring this Court’s interference, exercising power under Article 227 of the Constitution of India.

5. This application, having no merit, stands dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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