

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1348 of 2013

IN

T.S. 527 of 2009

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Shivdhani Prasad Son of Late Laxman Sao, Resident of Village - Telhara, P.O.
Telhara, Police Station - Telhara, District - Nalanda

.... Petitioner

Versus

1. Kailash Prasad Son of Shri Shivdhani Prasad Resident of Village and Post -
Telhara, Police Station - Telhara, District - Nalanda
2. Mithlesh Prasad Son of Shri Shivdhani Prasad, Resident of Village and Post -
Telhara, Police Station - Telhara, District - Nalanda
3. Smt. Shakuntela Devi Wife of Sri Deendayal Sah, Resident of Mohalla -
Purenderpur, Near Well in the Side of Devasthan, P.S. Jakkanpur, P.O. G.P.O.
District - Patna

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Dhaneshwar Prasad Gupta, Advocate

For Opp. Party Nos.1 & 2: Mr. Suresh Kumar,
Mr. Arbind Kumar, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 02-11-2017

The present petition has been filed for transfer of Title
Partition Suit No. 527 of 2009 pending in the court of learned
Subordinate Judge-X, Patna to the court of learned Subordinate Judge,
Hilsa, Nalanda.

2. Learned counsel for the petitioner submits that the
petitioner is the father of the opposite party nos. 1 and 2 and the title
partition suit has been instituted by the opposite party no. 1 at
Patna relating to the properties situated in the districts of Nalanda,
Patna and Jehanabad. The petitioner is at present aged about 75 years
and is suffering from various ailments including diabetes and it would



be very difficult for him to contest the title partition suit at Patna and accordingly, seeks transfer of the same to the court of learned Subordinate Judge, Hilsa, Nalanda. It is further submitted that while the opposite party no. 1 is working at Patna, the opposite party no. 2 resides at Telhara, Nalanda.

3. Learned counsel for the opposite party nos. 1 and 2 appears and opposes the transfer petition, submitting that such transfer has been sought after lapse of several years after institution of the title partition suit. It is further pointed that the petitioner has filed Complaint Case No. 176(C) of 2002 which is also pending at Patna.

4. Despite valid service of notice, none appears on behalf of the opposite party no. 3 when the matter is called.

5. Having heard learned counsel for the petitioner as well as learned counsel for the opposite party nos. 1 and 2 and on careful consideration of the materials available on record, this Court finds merit in the transfer petition. It is not in dispute that the petitioner is of advanced age of 75 years suffering from various ailments. It is also not in dispute that part of the properties involved in the title partition suit are situated in the district of Nalanda. The opposite party no. 2 is stated to be residing at Telhara, Nalanda which has not been controverted. The opposite party no. 3 has not appeared to oppose the petition for transfer.



6. The balance of convenience therefore, lies in favour of the petitioner and accordingly, this Court directs transfer of Title Partition Suit No. 527 of 2009 from the court of learned Subordinate Judge-X, Patna to the court of learned Subordinate Judge, Hilsa, Nalanda.

7. The petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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