

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.158 of 2018

=====

1. Dr. Uday Shankar Mishra, Son of Late Ram Jatan Mishra,
2. Manish Mishra, son of Dr. Uday Shankar Mishra, Both resident of
Village- Manjhawan, P.S.- Rohtas, District- Rohtas.

.... Appellant/s

Versus

1. Vijay Shankar Mishra, Son of Late Ram Bihari Mishra, Resident of
Village- Manjhawan, P.S.- Rohtas, District- Rohtas.
2. Daya Shankar Mishra, Son of Late Ram Jatan Mishra.
3. Jay Shankar Mishra.
4. Ravi Shankar Mishra, Both Sons of Sri Daya Shankar Mishra.
5. Most. Sunaina Kuar, W/o Late Dhurub Shankar Mishra.
6. Stayam Kumar Mishra.
7. Rahul Kumar Mishra. Both sons of Late Dhurub Shankar Mishra, All are
resident of Village- Manjhiawan, P.S.- Rohtas, District- Rohtas.
8. Sunil Kumar Tiwari, Son of Late Shakuntala Devi (mother) and Late
Jagdish Tiwari (Father), resident of Village- Tiwaridih, P.S.- Sasaram,
District- Sasaram.
9. Smt. Geeta Kumari, D/o Late Ram Jatan Mishra and Wife of Sri Bindu
Bhushan Upadhaya, resident of Mohalla- Sarvodaya Nagar, Karma Road,
Aurangabad, P.S.- Aurangabad, District- Aurangabad.
10. Hari Narayan Yadav, Son of Late Ramdhani Yadav, Resident of
village- Manjhiawan, P.S.- Rohtas, District- Rohtas.
11. Smt. Sunita Mishra, Wife of Sri Ajit Kumar Mishra, Resident of
Village- Manjhiawan, P.S.- Rohtas, District- Rohtas.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Arun Kumar Sinha
For the Respondent/s : Mr.

=====

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**
ORAL ORDER

2 02-11-2018

Heard the learned counsel for the petitioners.

The petitioners have filed this Civil Misc. petition
for setting aside the order dated 29.11.2017 passed by learned Sub
Judge-III, Sasaram by which the petition of the petitioners for
impleading them as defendants in the Title Suit No. 110 of 2015
has been allowed.

The learned counsel for the petitioners submits that



admittedly Narayan Mishra got three sons, namely, Ram Jatan Mishra, Shiv Jatan Mishra and Ram Bihari Mishra. The plaintiff and defendants are sons of Ram Jatan Mishra and intervenors are sons of Ram Bihari Mishra. Shiv Jatan Mishra died unmarried and he gifted his property in favour of Ram Jatan Mishra. A suit was filed in the year 1974 between sons of Narayan Mishra and preliminary decree was prepared on 09.09.1974 but no final decree was prepared. It is submitted that on the basis of preliminary decree there was partition between Ram Jatan Mishra and Ram Bihari Mishra and they were in exclusive possession of their land but later on legal heirs of Ram Jatan Mishra filed the present suit for partition in which legal heirs of Ram Bihari Mishra filed petition for intervention and in spite of the fact that on the basis of preliminary decree the property was partitioned and they have come in peaceful possession the intervention petition was allowed but I find that suit for partition was filed in the year 1974. Preliminary decree was prepared but no final decree was prepared carving out Takhta of three sons of Narayan Mishra and, therefore, there was no partition by metes and bounds. On such facts, the learned Sub Judge has rightly allowed the petition of the respondents to be impleaded as defendants in the suit for partition with regard to property of Narayan Mishra. Accordingly, I do not find any merit in this Civil Misc. petition and the same is dismissed.

(Prabhat Kumar Jha, J)

BKS/-

U			
---	--	--	--

