

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.267 of 2016

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1. Mantu Kumar, Son of Late Banarsi Poddar, resident of Malgodown Road, Ward No. 13, Khagariya, P.S. and District- Khagariya.

.... Petitioner/s

Versus

1. Mantun Kumar Yadav, son of Late Rajendra Yadav.
2. Most. Kabutari Devi, wife of Late Rajendra Yadav, Both residents of Village- Bari Kothiya, P.S. & District- Khagariya.
3. Sarita Devi, daughter of Late Rajendra Yadav, Resident of Village- Rasalpur Bahloriya, District- Begusarai at present residing at Bari Kothiya, P.S. & District- Khagariya,
4. Navin Agrawal.
5. Gopal Agrawal. Both sons of Late Bishwanath Prasad Both residents of Mohalla Bishwanath Ganj Ward No. 13, P.S. & District- Khagariya.
6. Most. Shanti Devi, Wife of Late Dilip Sah.
7. Puja Kumari
8. Lakshmi Kumari,
9. Kanhaiya Kumar. All minor sons and daughters of Late Dilip Sah, under the natural guardianship of their mother Most. Shanti Devi, respondent no.6. All residents of Malgodown Road, Khagariya, P.S. & District- Khagariya.
10. Raj Kumari Devi, daughter of Late Dilip Sah and wife of Rahul Ranjan, resident of village Karuamore, P.S. Chautham, District- Khagariya.
11. Uday Krishna Yadav, son of Harballav Yadav, resident of village Chukti, P.S.Mansi, District-Khagariya, (Defendants 2nd Party/Respondent 2nd Party in the court below).
12. Manikant Poddar, Son of Late Banarsi Poddar.
13. Jayanti Devi.
14. Didiya Devi.
15. Rekha Devi.
16. Punita Devi. All daughters of Late Banarsi Poddar All residents of Mal Godown Road, Ward no.13, Khagariya Municipality, P.S. & District- Khagariya. (Defendants 1st Party/Respondent 3rd Party in the court below).

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kumar Uday Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

6 24-08-2018

Heard Mr. Kumar Uday Singh, learned counsel appearing

on behalf of the petitioner and Mr. Dronacharya, learned counsel



appearing on behalf of the respondents.

Petitioner filed this civil miscellaneous petition against the order dated 04.05.2016 by which the learned Additional District Judge III, Khagaria dismissed the petition of the petitioner filed in Title Appeal No.19 of 2011 for allowing him to repair the dilapidated house in which the petitioner is residing holding that according to the Pleader Commissioner report, if the petitioner is allowed to repair the house, the physical feature of the house shall be changed.

Learned counsel for the petitioner submits that since the petitioner is residing in the house, the repairing of the house is necessary and if the appeal is dismissed, it will be open to the plaintiff-respondent to get the recovery of the house after execution.

Mr. Dronacharya, learned counsel for the respondents submits that since the appeal is pending since 2011, a direction be also issued to dispose of the appeal within six months.

Taking into consideration the submissions of both sides, I find that since the petitioner is residing in the house, which is in very dilapidated condition and the same requires immediate repairing, the petitioner should be allowed to get the house repaired at his own cost.



Accordingly, the order dated 04.05.2016 is set aside and the civil miscellaneous petition is allowed with a direction to the petitioner to get the house repaired and the Court is also directed to dispose of the appeal within six months from the date of receipt of this order.

(Prabhat Kumar Jha, J)

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