

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1957 of 2017

- =====
1. Sunil Kumar, Son of Late Sita Ram Sao.
 2. Babita Kumari, widow of Late Santosh Kumar,
 3. Shiwanjli Kumari minor daughter of late Santosh Kumar.
 4. Ratna Shree Minor daughter of Late Santosh Kumar
 5. Raj Laxmi, minor daughter of late Santosh Kumar petitioner no. 3,4, and 5 are minors under the natural guardianship and next friend Babita Kumari, mother, All resident of Muhalla Alamganj, Town, Post Office Biharsharif, Police Station- Laheri, District- Nalanda.
 6. Smt. Shanti Devi, Wife of Paras Nath Sao, daughter of Late Sita Ram Sao, resident of Muhalla Unta Railway Station, Jehanabad, Police Station Jehanabad, District Jehanabad.
 7. Smt. Kanti Devi, wife of Devendra Prasad Daughter of late Sita Ram Sao, resident of Muhalla New Sipahi Tola Police Station Purnea, District- Purnea.
 8. Smt. Asha Kumari, Wife of Shrawan Kumar daughter of late Sita Ram Sao resident of Muhalla Mahalapar, Post Office and Police Station Biharsharif, District Nalanda.

.... Appellant/s

Versus

1. Ashok Kumar Jain, Son of Madan Lal Jain Proprietor, Bihar Cloth Agency,
2. Mahitosh Nath Vishwas, Son of Late Mahendra Nath Vishwas, Both resident of Muhalla Alamganj Town Post Office Biharsharif, Police Station Laheri District- Nalanda.
3. Shankar Sao,
4. Anil Sao,
5. Pappu @ Sunil Sao.
6. Usha Devi,
7. Asha Devi,
8. Bebi Kumari,
9. Kalo Devi, All Sons and daughter of Late Parmeshwar Sao. null
10. Ishwar Lal, Son of Late Baiju Sao. All resident of Muhalla Amber Town, Post Office and Police Station Biharsharif, District Nalanda.
11. Sharda Devi, daughter of Late Baiju Sao Wife of Baijnath Sao.
12. Thakur Prasad, Son of not known,
13. Guddu Kumar,
14. Raju Prasad,
15. Deepak Kumar, Sons of Thakur Prasad,
16. Kanti Kumari, daughter of Thakur Prasad.
17. Shanti Kumari, Wife of Thakur Prasad.
18. Sudama Devi, daughter of Late Baiju Sao Wife of Bal Kishun Sao.
19. Janki Devi, daughter of Late Baiju Sao, Wife of Kishun Sao
20. Kamla Devi, daughter of Late Baiju Sao Wife of Chhote Lal Sao. All resident of Muhalla Amber, Town, Post office and Police Station Biharsharif, District- Nalanda- at present 85 BB, Ganguli Street, Bahu Bazar, Kolkata.
21. Subida Devi, Wife of Raj Kumar Singh, resident of Village Dayam Chak, Police Station Sare, District- Nalanda.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Santosh Kumar Sinha -2
For the Respondent/s : Mr. Mrigendra Kumar

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER



2 24-01-2018

Heard both sides.

The learned counsel for the petitioners submits that petitioners filed T. A. No. 24 of 2016, which is pending in the court of District Judge, Nalanda. The petitioners also filed stay petition for stay of Execution Case No.02 of 2016, which is pending but, in the meanwhile, the petitioners filed a petition before the Executing court under Order 21 Rule 14(2) and 35 of the C.P.C. for stay of execution case.

The learned counsel for the petitioners submits that petitioners filed Eviction Suit against defendant 1st set but during the pendency of eviction suit the defendants 2nd set claimed land to be their own and defendant 1st set admitted that they are tenants of defendants 2nd set. The suit of the plaintiff was dismissed and counter claim of defendant 2nd set was allowed against which the petitioners filed appeal.

The learned counsel for the respondents submits that stay petition filed under Order 41 Rule 5 of the C.P.C. is pending before the appellate court.

After some argument, the learned counsel for the petitioners seeks permission to withdraw this Civil Misc. petition in order to pursue the stay petition filed under Order 41 Rule 5 of the C.P.C.

Prayer is allowed.

This Civil Misc. petition is, accordingly, dismissed as withdrawn.

(Prabhat Kumar Jha, J)

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