

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1506 of 2017

1. Jinwa Devi W/o Late Daroga Rai
2. Ganesh Rai S/o Late Vriksha Rai
3. Prahlad Rai S/o Late Anant Rai All are residents of village - Purnahiya, Tola Bhawanipur, P.S. Darpa, District East Champaran.

... .. Petitioners

Versus

Ram Ayodhya Rai @ Bhalmakur Rai S/o Late Lachchuman Rai resident of village Purnahiya Tola Bhawanipur, P.S. Darpa, District East Champaran.

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Shri Prakash Srivastava, Advocate Ms. Anu Priyadarshni, Advocate Ms. Rinki Kumari, Advocate
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 30-08-2018

Heard Mr. Shri Prakash Srivastava, the learned counsel appearing on behalf of the petitioners.

2. The petitioners have filed this civil miscellaneous petition against the order dated 18.07.2017, passed in Title Appeal No.74 of 2015 by the learned District Judge, Motihari by which the petition of the petitioners filed under Order 41 Rule 27 of the CPC for bringing on record the plaint of Title Suit No.7 of 2016 has been rejected.

3. The learned counsel for the petitioners submits that the petitioners are the defendants in Title Suit No.8 of 2005. The plaintiff filed a suit for declaration of title and confirmation of



possession over Khesra Nos.1420 and 1421, Khata No.198, area 22 decimals. The suit was decreed. The petitioners being defendants filed Title Appeal No.74 of 2015 but during the pendency of the appeal, the plaintiff of Title Suit No.8 of 2005 again filed Title Suit No.7 of 2016 for declaration of title over Plot No.1421, therefore, the petitioners filed the petition to bring on record the plaint of Title Suit No.7 of 2016 additional evidence but the learned District Judge, East Champaran, Motihari has illegally rejected the petition of the petitioners.

4. I find no substance in the submission of the learned counsel for the petitioners. The learned District Judge has rejected the petition of the petitioners on the ground that the plaint of Title Suit No.7 of 2016 has got no relevancy for deciding Title Appeal No.74 of 2015. Admittedly the plaintiff-respondent of Title Appeal No.74 of 2015 filed Title Suit No.7 of 2016 stating therein that during the pendency of the appeal, the defendant dispossessed the plaintiff from Plot No.1421 and constructed a hut, therefore, the plaintiff filed the suit for recovery of possession. I find that the learned District Judge, East Champaran, Motihari has rightly recorded the finding that the plaint of Title Suit No.7 of 2016 has got no relevance.



5. Considering the facts and circumstances, I do not find any merit in the civil miscellaneous petition and the same is dismissed.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.09.2018
Transmission Date	NA

