

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3018 of 2011

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Smt. Ranjana Mishra wife of Late Bipin Kumar Mishra, a permanent resident of village and P.O. Bharatkhand, P.S. Parbatta, District Khagaria, at present residing in the suit premises situated at Professor Colony Dinkar Nagar, Pipra, Police Station Town, Subdivision and District Begusarai.

.... Petitioner

Versus

1. Gopal Kumar son of Satya Narayan Singh, a resident of village and Post Office Seshable, P.S. Barauni, District Begusarai.
2. Anjani Kumar Mishra @ Sadanand Mishra son of late Hari Kishore Mishra
3. Smt. Pammi Mishra widow of late Vinay Kumar Mishra
4. Smt. Pooja Kumari
5. Smt. Priti Kumari

Both nos.4 and 5 are minor under guardianship of their mother and next friend Smt. Pammi Mishra.

Nos.2 to 5 are permanent resident of village and P.O. Bharatkhand, P.S. Parbatta, District Khagaria.

.... Respondents

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Appearance :

For the Petitioner : Mr. Partha Sarthy, Advocate

Mr. Apurva Kumar, Advocate

For the Respondents : Mr. Naresh Chandra Verma, Advocate

Mr. L.K. Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 04-10-2018

Petitioner before this court is defendant in Title Eviction Suit No.01 of 2009 pending in the court of Munsif II, Begusarai. She has filed this writ application for quashing the order dated 26.11.2010 whereby and whereunder her petition to stay the further proceeding of eviction suit till the disposal of Title (Partition) Suit No.261 of 2005 pending in the court of Subordinate Judge III, Begusarai was rejected.

2. Heard learned counsels for the petitioner as well as the respondents.

3. It appears that the son of this petitioner filed Title



(Partition) Suit No.261 of 2005 for declaring the sale deed dated 29.07.2005 executed by the respondent no.2, who is father-in-law of this petitioner, in favour of respondent no.1 as illegal, void and not binding on the petitioner. The respondent no.1 on the strength of registered sale deed dated 29.07.2005 has filed Eviction Suit No.01 of 2009 in the court of Munsif for eviction of the petitioner. At the time of hearing, both parties conceded that the properties in dispute as well as the parties to both the suits are common and so in order to avoid multiplicity, the same may be amalgamated and tried by one and the same court.

4. In this regard, I would like to refer the observation of Hon'ble Apex Court in a case of M/s Chitivalasa Jute Mills v. M/s Jaypee Rewa Cement reported in AIR 2004 Supreme Court page 1687. The Hon'ble Apex Court at para-12 in aforesaid case has observed as follows:-

“The two suits ought not to be tried separately. Once the suit at Rewa has reached the Court at Viskhapatnam, the two suits shall be consolidated for the purpose of trial and decision. The trial Court may frame consolidated issues. The Code of Civil Procedure does not specifically speak of consolidation of suits but the same can be done under the inherent powers of the Court flowing from Section 151 of the CPC. Unless specifically prohibited, the Civil Court has inherent power to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court. Consolidation of suits is ordered for meeting the ends of justice as it saves the parties from multiplicity of proceedings, delay and expenses. Complete or even substantial and sufficient



similarity of the issues arising for decision in two suits enables the two suits being consolidated for trial and decision. The parties are relieved of the need of adducing the same or similar documentary and oral evidence twice over in the two suits at two different trials.”

5. In view of submissions of both the parties, the impugned order is set aside and Title Eviction Suit No.01 of 2009 pending in the court of Munsif II, Begusarai and Title (Partition) Suit No.261 of 2005 pending in the court of Subordinate Judge III, Begusarai are ordered to be consolidated and decided by the court of Subordinate Judge III where Title Partition Suit No.261 of 2005 is pending or any other Sub-Judge of Begusarai.

6. This writ application is accordingly disposed of.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.10.2018
Transmission Date	

