

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1114 of 2018

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1. Ram Khashtri Prasad Mahto @ Ram Khashtri Singh S/o Raghu Raj Mahto
alias Raghuraj Singh resident of Village - Mangalpur, P.S. - Nautan, P.O. -
Mangal Bazar, District East Champaran.

.... Appellant/s

Versus

1. Dwarika Prasad Singh S/o Late Raghuraj Prasad Mahto @ Raghuraj
Singh resident of Village - Mangalpur Gudarana, P.O. - Mangalpur Bazar,
P.S. - Nautan, District - West Champaran.
2. Most. Brij Rajo Kuar W/o Late Yogendra Singh resident of Village -
Mangalpur Gudarana, P.O. - Mangalpur Bazar, District - West Champaran.
3. Kaushalya Devi w/o Shankar Singh resident of Village - Sipah Khash,
P.S. - Parsurampur, P.S. - Darauli, District - Gopalganj.
4. Matesari Devi W/o Dinanath Singh Resident of Dokania, P.S. -
Manjholia, District West Champaran.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Tapeswar Sharma
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 05-11-2018

Heard the learned counsel for the petitioner.

The petitioner has filed this Civil Misc. petition
against the order dated 23.11.2017 passed in Partition Suit No. 221
of 2012 by learned Sub Judge-I, West Champaran, Bettiah by
which the learned Sub Judge rejected the petition of the petitioner
filed under Section 10 of the Code of Civil Procedure to stay the
further proceeding of Eviction Suit No. 138 of 1995 pending in the
court of learned Sub Judge-III, West Champaran, Bettiah.

The learned counsel for the petitioner submits that in



both the suits the parties are same and the issues are also same but it appears from perusal of the order impugned that in both suits different properties are sought to be partitioned. In partition suit No. 221 of 2012 the plaintiff sought partition of schedule-1 property being legal heir of Ram Khelawan Singh whereas in partition suit No. 138 of 1995 plaintiff sought partition of the property and claimed half share in the property of Bharosi Mahto.

In this view of the fact, I find that the learned Sub Judge has rightly dismissed the petition of the petitioner for stay of further proceeding of Title Suit No. 138 of 1995. Accordingly, this Civil Misc. petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

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