

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1351 of 2018

Md. Shafique, Son of Late Md. Habib, Resident of Mohalla- Miskaut, P.O. & P.S.- Motihari Town, District- East Champaran.

... .. Defendant 3rd Party... ..Petitioner
Versus

1. Sunaina Devi, Wife of Raju Prasad @ Raj Kumar Prasad,
2. Raju Prasad @ Raj Kumar Prasad, Son of Badri Prasad Mahto, Both residents of Mohalla- Baniyapatti Motihari, P.O. & P.S.- Motihari, District- East Champaran.

... ..Plaintiffs... ..Respondents 1st Set

3. Kavita Devi, Wife of Tribhuwan Singh, Resident of Village & P.O.- Mahuawa, P.S.- Pipra, District- East Champaran.
4. Kunwar Nireej Bhushan
5. Kunwar Mani Bhushan, Both sons of Ram Pukar Singh, Both resident of Village- Mathia Bhopat, P.O. & P.S.- Lakhaura, District- East Champaran.
6. Sajan Pratap Singh, Son of Tribhuwan Singh,
7. Tribhuwan Singh, Son of Sita Ram Singh, Both residents of Village & P.O.- Mahuawa, P.S.- Pipra, District- East Champaran.

... ..Defendants 1st Party... ..Respondents 2nd Set

8. Satya Narayan Singh, Son of Singhasan Singh, Resident of Village Majhriya, P.O. Bailaha, P.S. Turkauliya, District East Champaran.

... .. Defendant 2nd Party... ..Respondents 3rd Set

9. Basanti Devi, Wife of Mahadeo Ram,
10. Mahadeo Ram, Son of Bishun Ram
Both residents of Mohalla Teliyapatti, P.O. & P.S. Motihari Town, District East Champaran.

... ..Defendants 4th Party... ..Respondents 4th Set

11. Jhara Chaudhary,
12. Sadhan Chaudhari, Daughters of Mahindra Chaudhari, Both resident of Mohalla- Salimpur Road Kolkata, West Bengal.

... ..Defendants 5th Party... ..Respondents 5th Set

13. Raja Sen @ Shankar Sen, Son of Late Shashi Shekhar Sen, Resident of 36-B, S. Road Kolkata, West Bengal.
14. Bhagwati Charan Sen, Son of Late Sharda Prasad Sen, Resident of 20-A, Mahesh Dutt Road Kolkata, West Bengal, at present resident of Mohalla- Miskaut, P.O. & P.S.- Motihari Town, District- East Champaran.

... ..Defendants 6th Party... ..Respondents 6th Set

15. Jagdish Chandra Bose, Son of Late Anil Krishna Bose, Resident of 30/4/6/1, Ram Krishna Lane, Santara Gali, District- Hawrah-4, West Bengal.
16. Smt Vibhamati Paal, Wife of Krishan Kali Paal & Daughter of Late Sharda Prasad Sen, Resident of Phone Shitla Math, Durgapur Baili, District- Hawrah, West Bengal.

... ..Defendants 7th Party... ..Respondents 7th Set

Appearance :

For the Appellant/s : Mr. Md. Anis Akhtar
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA



ORAL JUDGMENT

Date : 07-09-2018

Heard the learned counsel for the petitioner.

2. The petitioner is defendant no.7 in the suit. The plaintiff filed the suit with regard to the land for declaration of title and for declaration that defendant no.7 is encroacher over the lands mentioned in Schedule II of the plaint. During the pendency of the suit, defendant no.8 filed petition for permission to get her shop repaired as the shop is in dilapidated condition. The plaintiff did not raise objection. The defendant no.7 raised objection that the court cannot pass any order with regard to the property situated outside the suit property as the same is not the subject matter of the suit. The suit plot is a big plot but the disputed plot is very small and the shop of the defendant no.8 is situated north to the shop of defendant no.7.

3. Taking in to consideration all the facts, the court allowed the defendant no.8 to get her shop repaired and also observed that any finding recorded in the order shall not be binding on any party. Being aggrieved by the aforesaid order dated 21.08.2018, the defendant no.8 assailed the order and submitted that the court has no jurisdiction to pass any order with regard to the property falling outside the purview of the suit but I find no force in the submissions of the learned counsel for the petitioner.



The court while passing the order has considered all the aspects that the shop of the defendant no.8 is not at all concerned with the disputed land mentioned in Schedule II of the plaint. The same is situated in the north boundary of the disputed area mentioned in the Schedule II of the plaint, therefore, I do not find any jurisdictional error or illegality in the order. Accordingly, this civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.09.2018
Transmission Date	NA

