

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.663 of 2018**

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1. Arun Kumar Singh,
2. Prabhat Kumar Singh, Both son of Late Jaleshwar Singh.
3. Amrit Kumar Singh.
4. Rajesh Kumar Singh both sons of Arun Kumar Singh.
5. Vinay Kumar Singh,
6. Binit Kumar Singh, Both sons of Prabhat Kumar Singh. All resident of Village- Kudarbadha, P.O.- Kudarbadha, P.S.- Garkha, District- Saran at Chapra.

.... Petitioner/s

Versus

1. Rabindra Kumar Singh.
2. Harendra Kumar Singh, Both sons of Late Sheopujan Singh.
3. Smt. Ram Kumari Devi, W/o Rabindra Kumar Singh.
4. Smt. Sheela Devi, W/o Harendra Kumar Singh, All resident of Village- Kudarbadha, P.O.- Kudarbadha, P.S.- Garkha, District- Saran at Chapra.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Basant Kumar Singh

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER**

4 18-09-2018 Heard both sides.

The petitioners filed this civil miscellaneous petition against the order dated 19.01.2018 passed by 1st Additional District Judge, Saran at Chapra in Misc. Appeal No.55 of 2012 by which learned Additional District Judge dismissed miscellaneous appeal of the petitioners filed against the order dated 12.10.2012 passed by Sub Judge IV, Chapra in Partition Suit No.487 of 2011 directing the party to maintain status quo with regard to the suit plot.

Mr. Basant Kumar Singh, learned counsel for the petitioners submits that the suit property was partitioned among the plaintiff and defendant and Khesra No.68 of Khata No.34 area



1 bigha 1 katha 19 dhurs was also partitioned. The plaintiff filed the suit for partition of the property. It is submitted that C.S.P. No.68 has been exclusively allotted to the share of the petitioners in partition effected in the year 1941 and subsequently Plot No.31, 110, 938 and 53 were allotted to the plaintiff. Subsequently, partition also took place in the year 1982 but when the petitioner got license for running petrol pump on Plot No.68, the plaintiff filed the suit for partition. On the petition of the plaintiff, learned Sub Judge vide order dated 12.10.2012 directed the parties to maintain status quo with regard to Plot No.68. Petitioners being defendants preferred Misc. Appeal No.55 of 2012 and the learned Additional District Judge set aside the order dated 12.10.2012 passed in Partition Suit No.487 of 2011 and vacated the order of status quo. The plaintiff filed CWJC No.19817 of 2013 and this Court vide order dated 30.09.2016 set aside the order passed in Misc. Appeal No.55 of 2012 and remanded the case for fresh consideration on the basis of the documents available on record. This Court held that learned Additional District Judge swayed away after perusal of the documents of the revenue authority with regard to possession over the land although the documents were not on record. On remand, learned Additional District Judge dismissed the appeal holding that the documents for acquisition of land and grant of compensation shows that there was no partition by metes and bounds between the parties because the plaintiff and



defendant jointly received compensation of the acquired land and, accordingly, dismissed the appeal. Mr. Basant Kumar Singh, learned counsel for the petitioners submits that the suit is pending since 2011 and the same is lying in the vacant court. It is submitted that petitioners have already got license to run petrol pump on Plot No.68 of Khata No.34. The petitioner could not be able to start his business and therefore, the suit itself be directed to be disposed of expeditiously.

Mr. J.K.Verma, learned counsel for the respondents submits that both the courts have already concluded, on the basis of the documents, that there is no prima facie material to show that there was any partition among the parties by metes and bounds and, therefore, the order maintaining status quo does not require any interference.

Having considered the submission of both sides, I find that in the suit for partition, both the courts have found that there is no partition of the suit properties between parties and directed the parties to maintain status quo with regard to suit properties. I find no infirmities and jurisdictional error in the order impugned. Accordingly, this civil miscellaneous petition is dismissed with a direction to the court below to dispose of the suit preferably within six months.

(Prabhat Kumar Jha, J)

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