

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1202 of 2017**

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1. Ramasharya Yadav S/o Late Bahore Yadav R/o Village Devanpur, P.O. Kariyan, P.S. - Rosera, District - Samastipur.

.... Appellant/s

Versus

1. Ram Prakash Jha S/o Late Rajdhar Jha
2. Ramesh Jha S/o Ram Prakash Jha both are residents of Village + P.O. - Kariyan, P.S. - Rosera, District - Samastipur.
3. Rambujhawan Jha
4. Muneshwer Jha@ Mantoon Jha Both are Sons of late Boyelal Jha
5. Subhash Chandra Jha
6. Prem Chandra Jha
7. Shiv Kumar Jha All are Sons of late Bhaglu Jha
8. Kameshwar Jha Son of late Rajdhar Jha
9. Amar Kant Jha
10. Mohan Jha Both are Sons of late Chandra Bali Jha
11. Saroj Kumar Jha
12. Santosh Kumar Jha
13. Vivek Kumar Jha All are Sons of late Madan Jha
14. Phool Jha
15. Dilip Jha Both are Sons of late Ramsankar Jha
16. Bhola Jha
17. Kanhaiya Jha Both are Sons of late Nageshwar jha All are Resident of Village- Kariyan Tole, Nande Nagar, P.S.+Anchal- Rosera, District - Samastipur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Abhishek Kumar

For the Respondent/s : Mr.

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

ORAL ORDER

3 11-10-2018 Heard both sides.

Petitioner has filed this petition against the order dated 03.04.2017 passed in Title Suit No.161 of 2011 by Sub Judge III, Rosera by which the petition of the petitioner filed under Order VII Rule 11(D) C.P.C. has been dismissed.



The plaintiff filed the suit for setting aside the sale deed dated 06.08.2011 executed by defendant 2nd set in favour of defendants 1st set and asserted that in Partition Suit No.60 of 1996 the disputed plot fell in the exclusive share of defendants 2nd set and, therefore, the plaintiff has got no cause of action to bring the suit but I find that the submission of the learned counsel for the petitioner cannot be accepted as merely because on the assertions of the defendants 2nd set, the suit of the plaintiff cannot be dismissed under Order VII Rule 11(D) of the C.P.C. that the defendants 2nd set has got every right to sell the property.

Considering the facts aforesaid, I do not find any jurisdictional error or illegality in the order impugned. Accordingly, this civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

Saurabh/-

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