

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1068 of 2018

1. Mostt. Tara Pati Devi, W/o Late Ramnath Prasad.
2. Anil Kumar,
3. Sunil Kumar,
4. Raj Kumar, All three sons of Late Ramnath Prasad.
5. Indu Devi, W/o Late Ashok Kumar,
6. Pankaj Kumar,
7. Bhagirath Kumar Alias Munna. Both Son of Late Ashok Kumar.
8. Gita Devi,
9. Mina Devi,
10. Bina Devi,
11. Rina Devi, All Four Daughters of Late Ramnath Prasad.
12. Satyanarain Pd. S/o Late Bachu Sah, All Petitioners resident of village- Hemantpur, P.O.- Kaswan, P.S.- Dighwara, District- Saran.

... .. Plaintiffs... .. Petitioners

Versus

1. Shailendra Kumar Prasad,
2. Rajen Prasad.
3. Roshan Prasad, All three Sons of Late Shatrughan Prasad.
4. Smt. Indu Devi,
5. Smt. Kiran Devi,
6. Smt. Krishna Devi,
7. Smt. Guria Devi. All Four daughters of Late Shatrughan Prasad.
8. Mintu Singh,
9. Pappu Kumar Singh.
10. Lallan Kumar Singh, all three sons of Late Vishwanath Singh,
11. Shail Kumari Devi, Wife of Late Shatrughan Prasad, All Respondent Nos. 1 to 11 resident of Village- Hemantpur, P.O.- Kasmar, P.S.- Dighwara, District- Saran.

... .. Defendant 1st set Respondents

12. Subodh Singh, Son of Late Ram Ekbal Singh.
13. Arun Singh.
14. Bijay Singh.
15. Om Prakash Singh,
16. Binay Singh, All respondent Nos. 13 to 15 sons of Late Ram Jiwan Singh. All Respondent Nos. 12 to 15, resident of Village- Hemantpur, P.O.- Kasmar, P.S.- Dighwara, District- Saran.
17. Pancha Bapu, H/o Prabha Devi,
18. Bitu Devi,
19. Rupa Devi,
20. Rinki Kumari, All respondent Nos. 18 to 20 Daughter of late Prabha Devi.
21. Vivek Kumar.
22. Vishal Kumar, All respondent Nos. 21 to 22 Sons of Late Ram Prabha Devi, All Respondent nos. 17 to 22 resident of Village- Hemantpur, P.O.- Kasmar, P.S.- Dighwara, District- Saran.

... .. Defendant 2nd set Respondents

Appearance :

For the Appellant/s : Mr. Mallika Mazumdar



For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 30-08-2018

Heard the learned counsel for the petitioners.

2. The petitioners filed this civil miscellaneous petition against the order dated 14.06.2018, passed in Title Appeal No.3 of 2009 by learned Additional District Judge-1, Chapra by which the petition of the petitioners for a direction to the trial court to prepare the decree in Title Suit No.2 of 2000 has been rejected.

3. The factual matrix of the case is that Shatrughan Prasad filed Title Suit No.2 of 2000 in the court of learned Munsif-II for declaration of title against Ramnath Prasad and Ramnath Prasad also filed Eviction Suit No.2 of 2000 against Shatrughan Prasad. Both the suits were heard together. The court decreed Title Suit No.2 of 2000 and found that Shatrughan Prasad has got title over the disputed land but the trial court did not prepare any decree in Title Suit No.2 of 2000.

4. The petitioners are widow and legal heirs of Ramnath Prasad who preferred Title Appeal No.3 of 2009 against the judgment passed in Title Suit No.2 of 2000. The petitioners filed a petition in the appellate court for a direction to the trial court to prepare the decree in Title Suit No.2 of 2000 but the learned Additional Judge dismissed the petition of the petitioners and directed the petitioners to file the decree passed in Title Suit No.2 of 2000.



5. Admittedly judgment was passed in Title Suit No.2 of 2000 with Eviction Suit No.2 of 2000 but no decree was prepared in Title Suit No.2 of 2000 although the petitioners filed Title Appeal No.3 of 2009 against the judgment passed in Title Suit No.2 of 2000. Since the decree was not prepared, the petitioners could not get the decree of Title Suit No.2 of 2000 and the appellate court directed the petitioners to file the decree of Title Suit No.2 of 2000 failing which the appeal shall be dismissed.

6. In this view of the fact, I dispose of this civil miscellaneous petition with a direction to the petitioners to file a petition before the trial court who decided Title Suit No.2 of 2000 for preparation of decree in pursuance of the judgment rendered by the court in Title Suit No.2 of 2000 so that the petitioners may file the decree in the appellate court. If such petition is filed, the trial court is directed to prepare the decree within two weeks from the date of filing such petition. The civil miscellaneous petition stands disposed of accordingly.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.09.2018
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