

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.308 of 2019**

=====

Yusuf Haider Khan, Son of Late Akhtar Hussain Khan, Resident of Mohalla-
Dodighat, P.S.- Khajenkala, Patna City, District- Patna

... .. Petitioner- (Plaintiff)

Versus

1. Equbal Haider Khan, S/o Late Akhtar Hussain Khan, R/o Mohalla-
Dollighat/Doolighat, P.S.- Khajekalan Patna City, District- Patna

..... Respondent (Defendant No.1)

2. Shanshar Haider, S/o Late Mobin Haider, R/o Mohalla- Doolighat, P.S.-
Khajekala, Patna City, District- Patna
3. Aquila Begam, Daughter of Shansha Haidar, R/o Mohalla- Doolighat, P.S.-
Khajakala, Patna City, District- Patna
4. Wahida Zanab, Daughter of Shansha Haider, R/o Mohalla- Doolighat, P.S.-
Khajekala, Patna City, District- Patna
5. Aman Haider, Son of Shansha Haider, R/o Mohalla-Doolighat, P.S.-
Khajekala, Patna City, District- Patna

... .. Respondents-Defendants

=====

Appearance :

For the Appellant : Mr. Yusuf Haider Khan, In person
For the Respondents : Mr.

=====

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

Date : 08-08-2019

This application under Article 227 of the Constitution of India has been filed by the petitioner for quashing the order dated 02.11.2018 passed by the learned Sub-Judge-VI, Patna City in Title Partition Suit No.11 of 1987.

2. The plaintiff-petitioner has brought the Title Partition Suit No.11 of 1987 against the defendants for his ½ share in the suit property. He submitted that the defendant no.1 is illegally receiving the rent from the tenants as the defendant no.1 is an



influential person. Since the plaintiff-petitioner is being deprived of the 50% share of the rent being received by the defendant no. 1 and the defendant no.1 is misusing the rent of the suit property, the trial court ought to have appointed a receiver to collect the rent from the tenants residing in the suit premises and to deposit the same in the court. He contended that the trial court has failed to appreciate the law and facts involved in the case and has wrongly rejected the application filed by the petitioner under Order 40 Rule 1 and Section 151 of the Code of Civil Procedure (for short 'CPC').

3. Having heard the petitioner and perused the materials on record, I find that the suit is pending since more than thirty years. Earlier this Court has directed the court below to decide the suit expeditiously and preferably within a year.

4. Order 40 Rule 1 of the CPC gives discretionary power to the court in the matter of appointment of receiver. A receiver is not to be appointed, unless there is some substantial background for such an interference. In case, there is cogent material, which indicates apprehension that the suit property will be dissipated or other irreparable mischief may be done, the court may appoint a receiver.



5. In the instant case, I do not find that there was any such ground available on the basis of which the court could have directed appointment of receiver for the purposes of collecting rent from the tenants and depositing the same in the court.

6. In that view of the matter, I am of the opinion that no jurisdictional error has been caused by the court while passing the order impugned.

7. Accordingly, I am not inclined to interfere with the order impugned in exercise of supervisory jurisdiction under Article 227 of the Constitution.

8. The application, being devoid of any merit is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.08.2019
Transmission Date	NA

