

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.433 of 2019**

Ram Nagina Turha @ Nagina Turha son of Late Mahade Turha, Resident of
Village-Miskarhi Mathiya, P.S. -Mairwa, District-Siwan

... .. Petitioner

Versus

1. Most. Lakho Devi wife of Late Dinesh Yadav
2. Smt. Suman Devi wife of Anil Yadav, daughter of Late Dinesh Yadav
3. Lal Babu Yadav son of Late Dinesh Yadav
4. Muniji Yadav son of Late Dinesh Yadav
5. Krishna Yadav son of Late Dinesh Yadav
6. Baliram Yadav son of Late Dinesh Yadav
7. Draupdi Devi daughter of Hansnath Choudhary
All resident of village- Miskarhi Mathiya, P.S.- Mairwa, District-Siwan

... .. Plaintiff/Respondent 1st set

8. Dukhharan Prasad son of Baijnath Teli
9. Janardan Gupta son of Late Vishwanath sah
10. Naumi Rajbhar son of Late Jado Lal Rajbhar.
11. Krishna Rajbhar son of Late Jado Lal Rajbhar
12. Smt. Raj Muni Devi daughter of Late jado Lal Rajbhar.
13. Smt. Amita Devi daughter of Late Jado Lal Rajbhar.
14. Smt. Sita Devi daughter of Late Jado Lal Rajbhar.
All are resident of village-Miskarhi Mathiya, P.S.- Mairwa, District-Siwan
15. Smt. Sheela Devi daughter of Late Gopalji Sah @ Gopalji Sahi.
16. Smt. Premlata devi daughter of Late Gopalji sah @ Gopalji Sahi.
17. Smt. Manju Devi daughter of Late Gopalji Sah @ Gopalji sahi
All are resident of village-Mairwa, (Lagarpur), P.S.-Mairwa, District-Siwan

... .. Defendant/Respondents 2nd Set

Appearance :

For the Petitioner : Mr.Ajay Kumar Pandey, Advocate
For the Respondent/s : Mr.

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

Date : 19-07-2019



This application under Article 227 of the Constitution of India has been filed by the petitioner for quashing the order dated 21.12.2018 passed in Title Suit No.194 of 2002 by the learned Munsif-II, Siwan whereby he has rejected the petition dated 22.02.2017 whereby permission for construction of toilet over the land in dispute has been denied.

2. Learned counsel appearing for the petitioner submitted that Title Suit No.194 of 2002 was filed by the plaintiff-respondent 1st Party on 26.11.2012 for declaration of title and confirmation of possession. The petitioner was not made party to the suit. He filed an intervention petition for being added as a defendant in the suit being necessary party. He claimed that he is in possession over the suit land and the suit is liable to be dismissed. His intervention petition was allowed and he has been impleaded as party defendant in the suit. Subsequently, he filed an application for granting permission to get a toilet constructed on the land in question under the "Swachhta Bharat Mission" launched by the Government of India.

3. He contended that the application of the petitioner has been erroneously rejected by the court below. According to him, the petitioner has a *pucca* house in the



western boundary of the suit land. There is no toilet in his house. He is a recorded tenant of an area of one katha twelve dhurs, which has been settled in his favour by the Circle Officer and, accordingly, settlement *parcha* has been issued on 21.03.1992. He is paying rent to the Government and rent receipt is being issued to him. He contended that the learned Munsif failed to consider that under the "Swachhta Bharat Mission" launched by the Government of India every house must have a toilet as defecation in open field is not only hazardous to health but also prohibited now.

4. I have heard learned counsel for the petitioner and perused the record.

5. The suit has been filed by the plaintiff-respondent 1st set for declaration of title and confirmation of possession. The petitioner has been made intervenor respondent in the case. It has not been admitted by the plaintiff-respondent 1st set that the petitioner is in possession over any part of the suit land. The suit is yet to be finally adjudicated and determined between the parties. Under the circumstance, only because the petitioner is claiming to be in possession over part of the suit land, the court could not have allowed his application filed for permitting him to construct a toilet over part of the suit



land. The learned Munsif has rightly held that allowing the application would amount to changing the physical feature of the suit land. The order impugned does not suffer from want of jurisdiction. The same is neither illegal nor perverse.

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

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.07.2019
Transmission Date	

