

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4248 of 2011

- 1.1. Subodh Kumar Upadhyay Both Sons of late Uma Kant Upadhyay resident of Village Hasanpur, P.S. Chakia District East Champaran.
- 1.2. Manorama Devi Daughter of late Uma Kant Upadhyay and Wife of Ashok Pandey residing at Gopichapra , P.S. Kesariya District East Champaran.
- 1.3. Appu Devi Daughter of Late Uma Kant Upadhyay and wife of Pramod Dubey of Village- Tikulia, P.S Gobindganj, District East Champaran.

... .. Petitioner/s

Versus

- 1.1. Rakesh Narayan
- 1.2. Rajesh Chandra All Sons of late Mahendra Singh of Village- Partapur, P.O.- Mehasi, P.S. Mehasi, District East Champaran.
- 1.3. Radhika Devi Daughter of Late Mahendra Singh and wife of Raj Nandan Prasad of Village P.O.- Sonbarsadih, P.S.- Maniyari, District Muzaffarpur.
- 1.4. Indu Devi Daughter of late Mahendra Singh and Wife of Shivji Prasad of Village -Garkhaichak, P.O.- Mahadeia, P.S. Minapur, District Muzaffarpur.
- 1.5. Geeta Devi Daughter of late Mahendra Singh and Wife of Hiralal Prasad of Village-Wijulpur Bankati, P.O. Chainpur, P.S. Turkaulia, District East Champaran.
2. Md. Roja Ansari Son of Alijan Ansari.
3. Upendra Upadhyay Son of Jivanand Upadhyay
4. Vinay Kumar Male Son of Ramdeo Bhagat.
5. Sudhir Kumar Mishra Son of Rup Narayan Mishra All 2 to 11 residents of Village /Chakia Near Gandhi Maidan, Po Bara Chakia P.S Chakia District East Champaran.
6. Dr. A.K. Srivastava Son Of Maha Shankar Pd. Shrivastava Village - Chakia, Near Gandhi Maidan P.O. - Bara Chakia, P.S. - Chakia, District - East Champaran
7. Vinay Kumar Male Son Of Ramdeo Bhagat Village - Chakia, Near Gandhi Maidan P.O. - Bara Chakia, P.S. - Chakia, District - East Champaran
8. Sudhir Kumar Mishra Son Of Rup Narayan Mishra Village - Chakia, Near Gandhi Maidan P.O. - Bara Chakia, P.S. - Chakia, District - East Champaran
9. Shambhu Pandey Son Of Dwarika Pandey Village - Chakia, Near Gandhi Maidan P.O. - Bara Chakia, P.S. - Chakia, District - East Champaran
10. Md. Seyum Son Of Israil Ansari Village - Chakia, Near Gandhi Maidan P.O. - Bara Chakia, P.S. - Chakia, District - East Champaran
11. Hasmat Ansari Son Of Saiful Haque Village - Chakia, Near Gandhi Maidan P.O. - Bara Chakia, P.S. - Chakia, District - East Champaran

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr.Shakti Suman Kumar
For the Respondent/s : Mr.Shri Prakash Srivastava

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
06-09-2019

The plaintiff-original opposite party No. 1 had initially filed an Eviction Suit bearing Eviction Case No. 15 of 1997 under the provisions of the Bihar Buildings (Lease, Rent & Eviction), Control Act, 1982 before the learned Court of Sub-Judge-IV, Motihari *inter alia* praying therein for eviction of the alleged tenant i.e. the original defendant-original petitioner herein and other defendants. Subsequently, the issue of title had arisen, whereafter the matter had travelled to this Court and this Court by an order dated 18.01.2005 passed in Civil Revision No. 1377 of 2004 had granted liberty to the original plaintiff i.e. Late Mahendra Singh to file a regular suit for declaration of title etc. with regard to the property in question in the aforesaid Eviction Suit No. 15 of 1997. Thereafter, the original plaintiff-respondent no. 1. herein had filed a Title Suit bearing Title Suit No. 52 of 2005, before the learned Court of sub-Judge, Motihari (East Champaran), *inter alia* paying therein to declare right, title and possession over the suit property as also to declare that the original petitioner herein is the tenant of the original opposite party no. 1 herein and accordingly, pass appropriate



decree in favour of the original opposite party no. 1. It is submitted by the parties that the aforesaid Title Suit No. 52 of 2005 is still pending adjudication before the learned court below and as far as Eviction Case No. 15 of 1997 is concerned, the learned court of sub-Judge-IV, Motihari by an order dated 28.03.2008 has directed for payment of rent with effect from the month of April, 2008. The said order dated 28.03.2008 is under challenge before this Court in the present writ petition at the behest of the original defendants-original petitioner herein.

The learned counsel for the parties submit that it would be in the interest of justice that both the Eviction Case No. 15 of 1997 and Title suit No. 52 of 2005 are amalgamated and heard together and till the final outcome of the said cases, the parties would not insist for deposit of rent in question, as directed by the learned court below by the aforesaid order dated 28.03.2008.

Having regard to the facts and circumstances of the case and considering the request made by the learned counsel appearing for both the parties, I deem it fit and proper to direct that the Eviction Case No. 15 of 1997 be amalgamated with Title Suit No. 52 of 2005 and both be heard together by the competent Court. It is further directed that the impugned order



dated 28.03.2008, directing payment of rent, as passed by the learned court of Sub-Judge-IV, Motihari shall remain in abeyance and shall be subject to the final outcome of the aforesaid two cases.

Having regard to the fact that the matter is pending before the learned court below since more than two decades, the learned court below is directed to expedite the matter and ensure passing of the final decree within a period of twelve months from today.

The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	13.10.2019
Transmission Date	

