

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1554 of 2019

1. Umashankar Mahto Son of Late Jhari Mahto, Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
2. Navin Mahto Son of Umashankar Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
3. Dablu Mahto @ Jai Shankar Mahto, Son of Umashankar Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
4. Vijay Mahto, Son of Late Sukharam Mahto, Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
5. Arvind Mahto Son of Late Sukharam Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
6. Manju Mahto, Son of Late Lakhan Mahto. Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.

... .. Plaintiff /Petitioners

Versus

1. Baijnath Mahto Son of Late Murat Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
2. Arun Mahto Son of Baijnath Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
3. Nidho Mahto Daughter of Baijnath Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
4. Indrasan Devi Daughter of Baijnath Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
5. Shila Devi Daughter of Baijnath Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
6. Bipin Mahto, Son of Arun Mahto, Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
7. Vikash Mahto Son of Arun Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
8. Shobha Mahto Son of Late Jagarnath Mahto, Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
9. Anil Mahto, Son of Shobha Mahto, Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
10. Amit Mahto @ Musa Mahto Son of Shobha Mahto, Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
11. Bablu Mahto Son of Shobha Mahto, Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
12. Abhimanyu Mahto Son of Shobha Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
13. Jhuni Devi Daughter of Shobha Mahto Resident of Village-Bingama, Post



Office-Jalalpur, Police Station-Patori, District-Samastipur.

14. Sunil Mahto Son of Late Prasadi Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
15. Tunil Mahto Son of Late Prasadi Mahto. Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
16. Gayatri Devi Wife of Late Prasadi Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
17. Bholiya Devi, Daughter of Jagarnath Mahto Resident of Village-Bingama, Post Office-Jalalpur, Police Station-Patori, District-Samastipur.
18. Jagbandhu Mahto, Son of Late Lakhan Mahto. Resident of Village-Bingama, Post office-Jalalpur, POLice Station-Patori, District-Samastipur.

... ... Defendants/Respondent/s

Appearance :

For the Appellant/s : Mr. J.S. Arora, Senior Advocate
Mr. Manoj Kumar, Adv

For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 21-11-2019

Heard learned Senior Counsel for the plaintiffs-petitioners and learned counsel for the defendant-respondents.

2. The present writ petition has been filed for the following reliefs as formulated by the plaintiffs-petitioners _

“(i) For quashing the order dated 28.06.2019 passed in Partition Suit No. 44 of 2006 by learned Subordinate Judge, Shahpur Patori, whereby he instead of disposing of the petition, for injunction filed by the plaintiffs has deferred the same for no reason whatsoever, and further to direct the learned Court below to dispose off the petitions for injunction of the plaintiffs-petitioners dated 12.06.2015 and 19.01.2018, without any further delay;

(ii) Also for a direction to the learned Court below to dispose off the partition suit, which has become more than 13 years of old without any progress therein;



(iii) Also for any other appropriate relief(s) to which the petitioners is found to be entitled either in the eye of law or on the facts and circumstances of the case.”

3. Mr. J. S. Arora, learned Senior Counsel appearing on behalf of the plaintiffs-petitioners submits that Partition Suit No. 44 of 2006 was ongoing between the parties, during the pendency of which compensation was received in lieu of acquisition of land belonging to the joint family. The plaintiffs-petitioners filed injunction petition dated 12.06.2015 with a prayer for restraining the defendants-respondents from executing any deed and from withdrawing the amount received from the Land Acquisition Department. Subsequently upon coming to know that the defendants-respondents had withdrawn certain amounts received from the Land Acquisition Office, a supplementary injunction petition was filed on 19.01.2018 for a direction to the defendants-respondents to deposit the entire amount in Court.

4. It is submitted that by the impugned order dated 28.06.2019, the learned Court below took up the injunction petition, but without assigning any proper and valid reason, the matter was adjourned with directions to the plaintiffs-petitioners to file copy of the sale deed and to press their petition dated 19.01.2018. Learned counsel for the plaintiffs-petitioners further submits that the petition dated 19.01.2018 was duly pressed as evident from para 5 of the said order by which the next date has been fixed for hearing of both the injunction petitions. A statement is made at the Bar that the injunction petitions remain pending.

5. Having regard to the nature of the grievance of the plaintiffs-petitioners, this Court directs the learned Court below to dispose of the injunction petitions dated 12.06.2015 and 19.01.2018 filed by the plaintiffs-petitioners, if pending,



on their own merits in accordance with law expeditiously and in any event preferably within a period of eight weeks from the date of receipt/production of a copy of this judgment.

6. As regards the prayer for disposal of Partition Suit No. 44 of 2006, considering that the same has remained pending for more than a decade, the same may be taken up and disposed of expeditiously.

7. The writ petition stands disposed of with the aforesaid observations and directions.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.11.2019
Transmission Date	25.11.2019

