

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1767 of 2019

Abdul Hayat @ Mohammad Hayat @ Md. Hayat son of Late Mohammad Isha resident of Village Darji Muhalla, Gola Bazar, Ward No. 4, Kasba Tajpur, P.O. and P.S. Tajpur, District Samastipur.

... .. Defendant (1st Set)/Respondent (1st Set)/Petitioner
Versus

1. Shafik Ahmad son of Late Md. Jaan resident of Village, Post and P.S. Babu Barhi, District- Madhubani, at present residing at Village- Darji Muhalla, Gola Bazar, Ward No. 4, Kasbe Tajpur P.O. and P.S. Tajpur, District- Samastipur.
2. Saleha Kahtoon wife of Shafik Ahmad and daughter of Late Md. Isha. resident of Village, Post and P.S. Babu Barhi, District- Madhubani, at present residing at Village- Darji Muhalla, Gola Bazar, Ward No. 4, Kasbe Tajpur P.O. and P.S. Tajpur, District- Samastipur.
3. Most. Asgari Khatoon @ Akbari Khatoon wife of Late Abdul Manan @ Abu Manj resident of Village, Post and P.S. Babu Barhi, District- Madhubani, at present residing at Village- Darji Muhalla, Gola Bazar, Ward No. 4, Kasbe Tajpur P.O. and P.S. Tajpur, District- Samastipur.
4. Sabra Khatoon wife of Wajir Hasan resident of Village Gaddopur, P.S. Bangra, District- Samastipur.
5. Sajda Khatoon wife of Abdul Quayum resident of Village Karhaiya, P.S. Raj Nagar, District Madhubani.
6. Rajda Khatoon wife of Md. Reza resident of Village, P.O. and P.S. Motipur, District- Muzaffarpur.
7. Najda Khatoon wife of Abdul Sakur resident of Village and Post Bajitpur, P.S. Manigachhi, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bhubneshwar Prasad
For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 13-12-2019

The present petition has been filed *“for quashing the order dated 17.09.2019 passed in Miscellaneous Appeal No. 21 of 2017 by the learned 5th Additional District Judge, Samastipur whereby and whereunder he has been pleased to allow the appeal*



filed by the plaintiffs and set aside the order dated 28.07.2019 passed in T.S. No. 374 of 2016 by the learned Sub Judge VI, Samastipur and directed to maintain the status quo over the suit land till disposal of the suit whereby and whereunder he has been pleased to reject the petition dated 17.11.2016 filed under Order 39 Rule 1 and Section 151 of the CPC filed by plaintiffs for grant of injunction against the defendants.”

2. Learned counsel for the defendant (1st set)/petitioner submits that the learned Additional District Judge has erred in passing the impugned appellate order setting aside the order dated 28.07.2017 passed on the petition under Order 39 Rule 1 and directing the parties to maintain *status quo* over the suit land till disposal of the title suit.

3. It is submitted on behalf of the defendant (1st set)/petitioner that he was already in possession of the suit land over which he had constructed a permanent structure, as such the injunction petition of the plaintiffs/respondents (1st set) was misconceived and *status quo* ought not to have been directed by the learned appellate Court.

4. Heard learned counsel for the defendant (1st set)/petitioner and perused the materials on record. It has been observed in para 11 of the impugned appellate order that the suit property was sold by Maimun Nisha after death of her husband Md. Isha to the plaintiff as well as to the defendant (1st set) on



different dates. The sale deed of the plaintiffs/respondents (1st set) was prior in time than the sale deed of the defendant (1st set)/petitioner. The learned appellate Court has observed that the property in dispute should be preserved in the present actual condition until the question of right over the property in dispute is decided. Learned counsel for the defendant (1st set)/petitioner has not pointed out any jurisdictional error in the appellate order nor that he has suffered any prejudice as a result of the *status quo* order.

5. The petition is devoid of merit and stands dismissed accordingly.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.12.2019
Transmission Date	NA

