

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1805 of 2019

1. Tarapur Hat Shop Keepers Association P.S. Tarapur, District Munger through its President of Sri Mahendra Choudhary
2. Sri Mahendra Choudhary, Son of late Kamleshwari Choudhary, President of Government Hat Shop Keepers Association, Tarapur, Resident of Tarapur, P.S. Tarapur, District-Munger.
3. Shri Sunil Choudhary, Son of Jago Choudhary, Secretary of Government Hat Shop Keepers Association, Tarapur, District- Munger.
4. Kaushal Sah, Son of late Deo Narain Sah, Member of Tarapur Government Hat Shop Keepers Association, Tarapur, District- Munger.
5. Manoj Choudhary, Son of late Indradeo Choudhary, Member of Tarapur Government Hat Shop Keepers Association, Tarapur, District- Munger.

... .. Appellant/s

Versus

1. Sri Chandra Shekhar Singh Son of late Yugal Kishore Singh, Resident of Village Sondiha, P.O. and P.S. Tarapur, District- Munger.
2. Sri Indu Shekhav Singh, Son of Chandra Shekhar Singh, Resident of Village Sondiha, P.O. and P.S. Tarapur, District- Munger.
3. Smt. Ahilya Devi, Wife of Sri Chandra Shekhar Singh, Resident of Village Sondiha, P.O. and P.S. Tarapur, District- Munger.
4. Shambhu Prasad Singh, Son of late Kapildeo Prasad Singh and Late Sudha Devi, Resident of Village Ram Chua, P.O. and P.S. Shambhuganj, District-Banka.
5. Nikki Devi D/o of late Kapildeo Prasad Singh and Late Sudha Devi, Resident of Village Ram Chua, P.O. and P.S. Shambhuganj, District- Banka.
6. Srimati Raj Kumari Devi, D/o of late Jugal Kishore Singh, Wife of Sri Ranjeet Prasad Singh, Resident of Village Milki, P.O. Banhara, P.S. Haveli Kharagpur, District-Munger.
7. The State of Bihar through the Collector-Cum- District Magistrate, Munger.
8. The Collector, Munger.
9. The Additional Collector, Land Reforms, Munger.
10. The Circle Officer, Tarapur, District- Munger.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Dr. Umashankar Prasad, Sr. Advocate Mr.Kamala Kant Tiwary Mr. Sanjay Kumar Jha, Advocates
For Respondents State	:	Mr.Md. Khurshid Alam (AAG12)

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT



Date : 20-12-2019

The present petition has been filed for the following reliefs as formulated by the petitioners --

“(i) To be pleased to direct the respondents not to dispossessed/disturb the rightful possession over the suit land/Hat of the petitioners during pendency of Title Suit No. 49 of 2009 filed by the petitioners for declaration that the plaintiffs/petitioners have required perfect indefensible title over the suit land, pending in the Court of learned Sub Judge Ist, Munger.

(ii) To be pleased to quash and set aside the order dated 13.11.2019 (Annexure-8) passed in Misc. Case No. 42 of 2019 filed by the petitioners with a prayer that the right, title and interest of the petitioners should be enquired by the Court and the respondents should be restrained from disturbing the peaceful possession of the petitioners over the Hat land from their shop.

(iii) To be pleased to stay the operation of the order dated 13.11.2019 (Annexure-8) passed in Misc. Case No. 42 of 2019 pending in the Court of learned Sub Judge Illrd, Munger during pendency of this case.

(iv) And/or pass such order or orders as your Lordships may deem fit and proper for the ends of justice.”

2. Learned Senior Counsel Dr. Umashankar Prasad appearing on behalf of the petitioners submits that a collusive decree has been obtained in Title Suit No. 20 of 1997 relating to the subject land on which the petitioners and their ancestors have been running their shops for the past century and now



being threatened with dispossession. It is submitted that the petitioners have also filed Title Suit No. 49 of 2009, in which their injunction petition is pending. Accordingly, an application was filed before the learned Court below in terms of Order 21 Rules 97 and 99 of the Code of Civil Procedure (CPC) for protection against dispossession.

3. At the very outset this Court takes note that Order 21 Rule 99 CPC permits an application by a person other than judgment debtor or purchaser of the property in execution of a decree, to make an application to the Court where he is dispossessed. In the present case, it is not in dispute that the petitioners are not being dispossessed rather they apprehend that they may be dispossessed.

4. In that view of the matter, this Court is of the view that the ingredients of Order 21 Rule 99 CPC are not fulfilled and the petitioners could not maintain their application thereunder before the learned Court below complaining of dispossession.

5. The petition is devoid of merit and is dismissed as such.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.12.2019
Transmission Date	NA

