

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.22 of 2019

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Ganga Dayal Dubey S/o Late Shyam Narayan Dubey resident of Village Tetri,
P.O.- Sasaram, P.S.- Sasaram (Muffasil), District- Rohtas.

... .. Petitioner/s

Versus

1. Bindesh Kumar Dubey and Anr Son of Ganga Dayal Dubey through their parentage of this plaintiffs has been already denied by the petitioner, resident of Village- Tetri, P.O.- Sasaram, P.S. Sasaram (Muffasil), District- Rohtas.
2. Rupesh Kumar Son of Ganga Dayal Dubey through their parentage of this plaintiffs has been already denied by the petitioner, resident of Village- Tetri, P.O.- Sasaram, P.S. Sasaram (Muffasil), District- Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwari
For the Respondent/s : Mr.Sanjay Kumar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

6 04-03-2020 Heard learned counsel for the petitioner and the counsel
appearing on behalf of opposite party.

Petitioner has filed present application challenging the order dated 08.01.2019. Contention of the petitioner in the present case is that stranger to the family cannot maintain partitions suit.

Learned counsel for the opposite party with reference to the document would submit that opposite parties are the legitimate son of the defendant and as such the contention that they are stranger to the family is totally misconceived. During the course of hearing both parties agreed that the issue as to legitimacy can be appropriately decided by Family Court.



However the apprehension of the opposite party in the present case is that the petitioner in this case may alienate the property to defeat the legitimate claim of the opposite party. Both party in the facts of the case agreed that they will not alienate any property of the joint family until final declaration as to legitimacy of the opposite party by the Family Court is made.

In view of the undertaking of both the parties, the present application is disposed of with liberty to the opposite party to approach the Family Court for appropriate declaration of legitimacy and thereafter he shall be entitled to maintain partition suit for partition of the family property and any transfer made henceforth shall not be binding on the opposite party and the purchaser may purchase any property at his or her own risk. The doctrine of lis pendens will apply with full force in the event of any transfer of the property until final decision.

With the aforesaid the present application is disposed of.

Rishi Kumar/-

(Anil Kumar Upadhyay, J)

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