

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1730 of 2019

1. Bharat Prasad S/o Late Jagdish Prasad Resident of Village- Nirpur, P.O.- Nirpur, Via-Nalanda, P.S.- Nalanda, District- Nalanda
2. Bal Krishna @ Bal Krishna Prasad @ Satya Narayan Prasad S/o Late Jagdish Prasad Resident of Village- Nirpur, P.O.- Nirpur, Via-Nalanda, P.S.- Nalanda, District- Nalanda
3. Shanti Devi W/o Jagdish Prasad Resident of Village- Nirpur, P.O.- Nirpur, Via-Nalanda, P.S.- Nalanda, District- Nalanda

... .. Petitioner/s

Versus

1. Ram Krishna Prasad S/o Vishnu Prasad Resident of Village- Nirpur, P.O.- Nirpur, Via-Nalanda, P.S.- Nalanda, District- Nalanda
2. Munna Kumar S/o Ram Krishna Prasad Resident of Village- Nirpur, P.O.- Nirpur, Via-Nalanda, P.S.- Nalanda, District- Nalanda

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Anirudh Kumar Sinha
For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

14-01-2020

The present application has been filed “*against the order dated 19.07.2019, passed in Title Suit No. 106 of 2003 passed by the Sub judge VI, Biharsharif, Nalanda, who by his order rejected the petition dated 21.09.2016 filed on behalf of petitioners (defendant no.3 to 5).*

2. Learned counsel for defendant nos. 3 to 5/petitioners submits that the learned court below ought to have accepted their plea and disposed of the partition suit in terms of the earlier compromise entered into between the parties in presence of the then Mukhiya, Saryug Prasad, in view of which Case No.



83 of 2005 was disposed of on 20.05.2016 by the S.D.O., Rajgir, which case had been instituted at the instance of the plaintiff.

3. Having heard learned counsel for defendant nos. 3 to 5/petitioners and on consideration of materials on record, this Court is not inclined to interfere in the matter.

4. From a perusal of the impugned order dated 19.07.2019, it transpires that the respondents have disputed the fact of compromise before the then Mukhiya, Saryug Prasad, and having signed any compromise petition. Any document showing compromise having been entered into in the past is stated to be forged and no such document was ever filed in the partition suit pending since 2003. There is considerable delay on the part of defendant nos. 3 to 5/petitioners, who have approached the learned court below with their petition dated 21.09.2016. The learned court below has held that the provisions of Section 11 CPC are not attracted and has accordingly rejected the prayer made in the aforesaid application dated 21.09.2016.

5. This Court does not find any irregularity or illegality committed by the learned court below. It is well-settled that this Court does not sit in appeal over the impugned order while exercising jurisdiction under Article 227 of the Constitution of



India, the scope whereof is primarily only to ensure that the learned court below acts within the bounds of its authority. No jurisdictional error in the impugned order has been pointed out by learned counsel for the defendant nos. 3 to 5/petitioners.

6. The petition accordingly stands dismissed.

(Vikash Jain, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.01.2020
Transmission Date	

