

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1716 of 2019

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1. Rajendra Pd. Yadav @ Rajendra Yadav @ Madan Yadav son of Late Ramkisun Yadav @ Late Ramkisun Pd. Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.
 2. Santosh Yadav @ Santosh Kumar Yadav son of Rajendra Yadav @ Rajendra Prasad Yadav @ Madan Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.
 3. Ritesh Yadav @ Ritesh Kumar Yadav son of Rajendra Yadav @ Rajendra Prasad Yadav @ Madan Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.
 4. Mukesh Yadav @ Mukesh Kumar son of Rajendra Yadav @ Rajendra Prasad Yadav @ Madan Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.

... .. Plaintiffs/Appellants/Petitioners
Versus

1. Ranjit Yadav son of Late Sudhir Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.
2. Ajit Yadav son of Late Sudhir Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.

.....Defendants/Opposite Parties/Respondent 1st Set

3. Vishundeo Yadav son of Late Mishri Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.
4. Indradeo Yadav son of Late Vishundeo Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.
5. Laloo Prasad Yadav son of Vishundeo Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.

.....Defendants/Opposite Parties/Respondent 2nd Set

6. Smt. Urmila Devi @ Uma Devi W/o. Late Devan Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.
7. Ganga Pd. Yadav son of Late Devan Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.
8. Naval Kishore Prasad Yadav son of Late Devan Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.

.....Defendants/Opposite Parties/Respondent 3rd Set

9. Parmeshwar Yadav son of Late Jahuri Yadav resident of Village- Maulakha, P.O.- Safiabab, P.S.- Kasim Bazar, District- Munger.
10. Guddu Yadav @ Amit Yadav son of Parmeshwar Yadav resident of Village- Naulakha, P.O.- Safiabab, P.S. Kasim Bazar, District- Munger.



11. Pramod Yadav son of Parmeshwar Yadav resident of Village- Naulakha, P.O.- Safiabab, P.S. Kasim Bazar, District- Munger.
12. Kedar Goswami @ Faudari Goswami son of Late Bahadur Goswami resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.
13. Lalmani Devi wife of Late Ambika Prasad Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.
14. Smt. Lal Pari Devi wife of Late Kanhi Yadav resident of Village- Bhagichak, P.O. Jamalpur, P.S. Naya Ram Nagar, District- Munger.
15. Ashok Sah son of Late Bhuneshwar Sah resident of Village- Heru Diyara, P.S. Kasimbazar, District- Munger.

.....Defendant/Opposite Party/Respondent 4th Set

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Appearance :

For the Plaintiffs/Petitioner: Mr. Najmul Hoda
Mr. Arjun Prasad, Advocates.

For the Respondents :

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 13-01-2020

The present petition has been filed “against the order dated 25.02.2019 passed by the A.D.J. II, Munger passed in Misc. Appeal No. 18/2016 whereby the learned Court below has dismissed the Miscellaneous case filed by the petitioners under Order 43, Rule 1(r) of C.P.C. affirming the order of the learned sub-Judge Ist, Munger dated 19.05.2016 passed on injunction petition filed by the petitioners (Plaintiffs-Appellants) in Title Partition Suit No. 92 of 2014.”

2. Learned counsel for the plaintiffs/appellants/petitioners submits that the suit was filed for partition of land in which they have 1/6th share. However during



the pendency of the suit, defendant/opposite party/respondent 4th set is threatening to dispossess the plaintiffs/appellants/petitioners from the land claimed to have been purchased by them from the defendant/opposite party/respondent 1st set and further sell the same to the third parties. It is submitted that irreparable injury will be caused if the defendant/opposite party/respondent 4th set is not restrained from selling the land which is under the possession of the plaintiffs/appellants/petitioners.

3. Having heard learned counsel for the plaintiffs/appellants/petitioners and on consideration of the materials on record, this Court is not inclined to interfere in the matter. From a perusal of the impugned appellate order dated 25.02.2019, it transpires that the learned Court has considered the rival submissions of the parties in considerable detail. The submission of the respondents has been taken note of that both parties had been selling portions of the land according to their convenience and need. From the plaint, the complete details of the ancestral land are not ascertainable nor the extent of the land which has been sold by the parties nor what part remained after such sale. The learned appellate court has expressed that such particulars can only be ascertained after considering the evidence and if any portion of the land under possession of the plaintiffs/appellants/petitioners is found to have been sold, the



same would be returned to them and as such no irreparable injury is likely to be caused. As such, the balance of convenience has also not been shown in favour of the plaintiffs/appellants/petitioners who have not sought for any report from the Pleader Commissioner.

4. In these circumstances, this Court does not find any illegality or infirmity in the impugned appellate order dated 25.02.2019. 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 plaintiffs/appellants/petitioners.

5. The petition accordingly stands dismissed with the observation that the learned Court below may, in its own discretion and having regard to any exigencies and special circumstances obtaining in the case, consider expeditious disposal of Title Partition Suit No. 92 of 2014.

(Vikash Jain, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.01.2020
Transmission Date	N.A.

