

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1776 of 2019**

Dewanti Devi Wife of Rana Sangram Singh, Resident of Village Parariya, P.O. and P.S. Mali District Aurangabad and D/o of late Ram Bilash Singh, Resident of Village + P.O. Ganghar, P.S. Kutumba District- Aurangabad, Bihar.

... .. Plaintiff/Petitioner

Versus

1. Kameshwar Singh Son of late Mahangu Singh, Resident of Village Ganghar, P.O. Baliya, P.S. Kutumba, District- Aurangabad, Bihar.
2. Munshi Singh, Son of late Mahangu Singh, Resident of Village Ganghar, P.O. Baliya, P.S. Kutumba, District- Aurangabad, Bihar.
3. Suresh Singh, Son of late Mahangu Singh, Resident of Village Ganghar, P.O. Baliya, P.S. Kutumba, District- Aurangabad, Bihar.
4. Rajeshwar Singh, Son of late Meghnath Singh, Resident of Village Ganghar, P.O. Baliya, P.S. Kutumba, District- Aurangabad, Bihar.
5. Sidheshwar Singh, Son of late Meghnath Singh, Resident of Village Ganghar, P.O. Baliya, P.S. Kutumba, District- Aurangabad, Bihar.
6. Pravesh Singh, Son of late Meghnath Singh, Resident of Village Ganghar, P.O. Baliya, P.S. Kutumba, District- Aurangabad, Bihar.
7. Dudheshwar Singh, Son of late Meghnath Singh, Resident of Village Ganghar, P.O. Baliya, P.S. Kutumba, District- Aurangabad, Bihar.
8. Arvind Singh, Son of late Meghnath Singh, Resident of Village Ganghar, P.O. Baliya, P.S. Kutumba, District- Aurangabad, Bihar.
9. Vijay Singh, Son of late Meghnath Singh, Resident of Village Ganghar, P.O. Baliya, P.S. Kutumba, District- Aurangabad, Bihar.
10. Pramod Singh, Son of late Meghnath Singh Resident of Village Ganghar, P.O. Baliya, P.S. Kutumba, District- Aurangabad, Bihar.
11. Binod Singh Son of late Meghnath Singh Resident of Village Ganghar, P.O. Baliya, P.S. Kutumba, District- Aurangabad, Bihar.

... .. Defendants/Respondents

Appearance :

For the Petitioners : Mr. Shailesh Kumar Singh, Advocate.

For the Respondents :

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 18-01-2020

The present application has been filed “for setting aside
the order dated 05.04.2018 passed by Sub-Judge-VIII, Aurangabad
passed in Execution Case No. 04 of 2016/ 24 of 2017.



2. Learned counsel for the plaintiff/petitioner submits that partition suit no. 195 of 2017/219 of 2011 was decreed in her favour and final decree was prepared on 15.12.2011. Consequently, Execution Case No. 04 of 2016/24 of 2017 was commenced. However, the defendants/respondents filed Miscellaneous Case No. 09 of 2015 on 30.12.2013 against the judgment dated 08.12.2011 and decree dated 15.12.2011 as the same had been decided *ex-parte*. The learned Court below, by the impugned order dated 05.04.2018, has directed that the Execution Case No. 04 of 2016/24 of 2017 would be dealt with after decision in the Miscellaneous Case No. 09 of 2015. Learned counsel submits that considerable time has since elapsed but Miscellaneous Case No. 09 of 2015 remains pending and seeks its expeditious disposal.

3. Having heard learned counsel for the plaintiff/petitioner and on consideration of the materials on record, this Court finds that by the impugned order, the learned Court below has expressed its intention to dispose of the Miscellaneous Case No. 09 of 2015 first before taking up the execution case. In principle, no jurisdictional error has been pointed out in this regard by learned counsel for the plaintiff/petitioner who merely desires that the miscellaneous case be disposed of at an early date inasmuch as the decree holder is being prevented from reaping the fruit of the decree passed in her favour.



4. Having regard to the nature of the grievance of the plaintiff/petitioner, the petition stands disposed of, 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 Miscellaneous Case No. 09 of 2015.

5. Considering the nature of the order passed, no notice is deemed necessary to be issued to the defendants/respondents. The petition stands disposed as above.

(Vikash Jain, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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