

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.144 of 2021**

1. Suresh Rajak Son of Sonelal Rajak Resident of Ward no.6, Near Hanuman Mandir Thakuri Chak, P.O.-Garhara, P.S.-Barauni, District-Begusarai.
2. Shashi Bhushan Rajak Son of Ramdeo Rajak Resident of Ward no.-6, Near Hunaman Mandir Thakuri Chak, P.O.-Garhara, P.S.-Barauni, District-Begusarai.
3. Nand Kishor Rajak Son of Ramdeo Rajak Resident of Ward no.-6, Near Hunaman Mandir Thakuri Chak, P.O.-Garhara, P.S.-Barauni, District-Begusarai.
4. Meghnath Rajak Son of Sonelal Rajak Resident of Ward no.-6, Near Hunaman Mandir Thakuri Chak, P.O.-Garhara, P.S.-Barauni, District-Begusarai.

... .. Petitioner/s

Versus

1. Agrawal Rajak Son of Sakaldhari Rajak Resident of Thakuri Chak, P.O.-Garhara, P.S.-Barauni, District-Begusarai.
2. Deena Nath Rajak Son of Late Sakaldhari Rajak Resident of Thakuri Chak, P.O.-Garhara, P.S.-Barauni, District-Begusarai.
3. Ram Nath Rajak Son of Late Sakaldhari Rajak Resident of Thakuri Chak, P.O.-Garhara, P.S.-Barauni, District-Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shaishav Kumar, Adv.

For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 23-11-2021 Heard learned counsel for the petitioners.

Learned counsel for the petitioners is directed to
remove all the defects pointed out by the Stamp Reporter within
one month.



Learned counsel for the petitioners has submitted that vide impugned order, a petition filed under Order XIV Rule 1 & 2 of Code of Civil Procedure was rejected by the court below in Title Suit No. 09 of 2017. Vide petition under Order XIV Rule 2, the petitioner made a prayer before the court below to hear the parties on preliminary issue after settling it that the Will deed was post dated to the death of the testator. The learned counsel has further submitted that the title suit has been instituted in order to probate the deed of Will, which has been as per submission of the learned counsel, subsequent to the death of the testator. Learned court below has rejected this petition on the ground that the main fact and issue is the authenticity and genuineness of the Will.

In my opinion, this point can not be raised as preliminary issue rather it requires evidences on behalf of both the parties. As such, the learned trial court has rightly rejected the petition for settlement of preliminary issue.

I do not find any illegality or irregularity in the impugned order.

Accordingly, this Civil Misc. Petition is dismissed.

Office shall ensure that all defects are removed by the petitioners within the stipulated time provided in para-2



hereinabove, failing which the matter shall be brought to the
notice of this Court.

(Nawneet Kumar Pandey , J)

ravishankar/-

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