

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.59 of 2022**

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1. Rajdeo Singh Son of Late Anant Singh Resident of Village Bisunpura, P.O. - Purnadih, P.S. - Obra, District- Aurangabad.
2. Krishna Murari Singh Son of Rajdeo Singh Resident of Village Bisunpura, P.O. - Purnadih, P.S. - Obra, District- Aurangabad.
3. Nitesh Kumar Singh @ Nitesh Kumar Son of Krishna Murari Singh Resident of Village Bisunpura, P.O. - Purnadih, P.S. - Obra, District- Aurangabad.

... .. Petitioner/s

Versus

1. Jagdish Singh Son of Late Punit Singh Resident of Village Bisunpura, P.O. - Purnadih, P.S. - Obra, District- Aurangabad.
2. Mandeep Singh alias Madheshar Singh Son of Late Punit Singh Resident of Village Bisunpura, P.O. - Purnadih, P.S. - Obra, District- Aurangabad.
3. Dudheshwar Singh Son of Late Punit Singh Resident of Village Bisunpura, P.O. - Purnadih, P.S. - Obra, District- Aurangabad.
4. Sailender Kumar Son of Mandeep Singh Resident of Village Bisunpura, P.O. - Purnadih, P.S. - Obra, District- Aurangabad.
5. Arun Kumar Son of Mandeep Singh Resident of Village Bisunpura, P.O. - Purnadih, P.S. - Obra, District- Aurangabad.
6. Prakash Kumar Son of Mandeep Singh Resident of Village Bisunpura, P.O. - Purnadih, P.S. - Obra, District- Aurangabad.
7. Manoj Kumar Son of Dudheshwar Singh Resident of Village Bisunpura, P.O. - Purnadih, P.S. - Obra, District- Aurangabad.
8. Lallu Prasad Son of Dudheshwar Singh Resident of Village Bisunpura, P.O. - Purnadih, P.S. - Obra, District- Aurangabad.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Anil Kumar  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

2      29-06-2022                      Heard Mr. Anil Kumar, learned counsel for the  
petitioners.

Petitioners are appellants in a Partition Appeal No.  
26/2004 in which a petition has been filed on 03.07.2017 with a



prayer to recast the issues at the appellate stage (whether scheduled -II land of the plaint is self acquired land of Rajdeo Singh).

By the impugned order, learned lower appellate court has come to the finding that the trial court has come to the finding that Scheduled-II properties is not the self-acquired property rather purchased from joint nucleus and accordingly, the issue was decided in favour of the plaintiffs. The trial court has adjudicated the issue of jointness/self acquired of Scheduled-II property and has held that the Scheduled-II property is not the self acquisition rather purchased from joint nucleus. The learned lower appellate court has also come to the conclusion that the merit of the decision of the trial court will certainly be tested while adjudicating this appeal and rejected the petition dated 03.07.2017 filed by the petitioners.

Learned counsel for the petitioners submits that there was previous partition in the year 1958 which would be evident from Annexure-1, and Scheduled-II property is the self acquired property of Rajdeo Singh.

After having heard learned counsel for the parties and having gone through the impugned order, I come to the conclusion that the issue, which the petitioners wanted to recast,



has already been decided by the the learned trial court in para-  
10 of the judgment.

Accordingly, I do not find any illegality in exercise of  
its jurisdiction by the learned lower appellate court. This  
application stands dismissed.

**(Anil Kumar Sinha, J)**

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