

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.26 of 2018

1. M/s Newton Construction
2. Ajay Kumar, son of Shri Sharda Nand Singh, resident of Village-Mohamadpur, P.O. Marachi, P.S. Dhanarua, District- Patna, at partner of M/s. Newton Contructions Narayan Shree Apartment, Patel Path, Sheikhpura, P.S. Shastri Nagar, District Patna.

... .. Petitioner/s

Versus

1. Shailendra Kumar Sinha, son of Late Harihar Prasad Sinha.
2. Smt. Sutapa Sinha, wife of Sri Shailendra Kumar Sinha.
Both 1 and 2 residents of Village- Halimpur, Post Dumri, P.S. Majorganj, District Sitamarhi, Initially resided at C/o Nikhil Ranjan Banerjee, Marisonganj Church Road, P.S. Kotwali, District Bhagalpur, and at present residing at Flat No. B/1, Anand Bhawan Apartment, Road No. 4 A, Gardanibagh, Patna- 800001
3. Anandi Krishna, son of Late Gopal Krishna Verma
4. Smt Sushila Sinha, w/o Late Prem Krishna Sinha
5. Smt. Niloo Sinha w/o Late Ravindra Krishna Sinha
6. Sri. Vinod Krishna Sinha, s/o Late Gopal Krishna Verma
All 3 to 6 residents of Mohalla North Mantiri, P.S. Budha Colony, District Patna.
7. Mrs. Runam Srivastava wife of Mr. Ranjan Kumar
8. Mr. Ranjan Kumar son of Sri. Jaimangal Srivastava,
Both 7 and 8 residents of Flat No. A/101 Pushpanjali Enclave, North Mantiri, P.S. Budha Colony, District Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. K.M.Joseph, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 03-08-2022 Heard Mr. K.M. Joseph, learned counsel for the
petitioners.

The petitioners have challenged the order dated
22.11.2017 passed by the learned District Judge, Patna, in Misc.
Civil Appeal No. 22 of 2017 whereby the order restoring the Title



Suit No. 67 of 2008 passed in Misc. Case No. 03 of 2016 dated 29.04.2017 has been confirmed.

Mr. K.M. Joseph, learned counsel for the Petitioners/Defendants submits that the Title Suit No. 67 of 2008 was filed by the Plaintiffs/Respondents for specific performance on the basis of oral agreement for sale. He next submits that the suit was filed in 2008 but the Plaintiffs were not pursuing their case diligently, and due to which, it was dismissed for default for not doing the *pairvi* despite repeated reminders, on 6.1.2016.

A Misc. Case bearing No. 03 of 2016 was filed by the Respondents/Plaintiffs for restoration of Title Suit No. 67 of 2008 which has been allowed by a detailed order dated 29.04.2017. The learned Trial Court in the Miscellaneous Case arrived at the finding that Plaintiffs are now willing to contest the suit and they are having *prima facie* case against the defendants. Therefore, the Suit should be decided on merit and not on mere technicalities. This finding returned in the Misc. Case, was challenged by the Petitioners in Misc. Appeal, before the learned District Judge, who by the impugned order has confirmed the finding of the learned court below given in Misc. Case No. 3 of 2016 after arriving at the conclusion that the impugned order dated 29.04.2017 is legal and just order.



Having heard learned counsel for the petitioners and upon perusal of both the orders, I find that the learned courts below have found the sufficient ground for allowing the restoration of the suit which was dismissed vide order dated 06.01.2016.

As such, I do not find any infirmity in both the impugned orders.

Accordingly, this application stands dismissed.

Later on, Mr. K.M. Joseph, learned counsel for the petitioners submits that a direction be issued to the learned Trial Court to decide the suit on merit within a reasonable time frame inasmuch as the suit was filed in the year 2008 and by now about fourteen years have passed.

In view of the aforesaid submission, the Trial Court is directed to dispose the suit on its own merit within a maximum period of one year.

(Anil Kumar Sinha, J)

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