

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.128 of 2021

1. Rubi Kumari @ Rubi Lata Singh daughter of Late Krishanandan Singh and Wife of Sri Ganesh Kumar @ Ganesh Prasad Singh, R/o Village - Nirpur, P.S. - Bariarpur, District - Munger, presently residing in Village - Toralpur, P.S. - Suryagarha, District - Lakhisarai.
2. Archana Bharti, daughter of Late Krishannandan Singh, wife of Sri Bibhuti Prasad Singh, R/o Village Karharia, P.S. - Bath (Sultanganj), District - Bhagalpur, presently residing in Village - Toralpur, P.S. - Suryagarha, District - Lakhisarai.
3. Sadhna Kumari, daughter of Late Krishanandan Singh and Wife of Sri Ritesh Prasad, R/o Village - Galimpur, P.S. - Karaiparsarai, District - Nalanda and also in Village - Toralpur, P.S. - Suryagarha, District - Lakhisarai, presently residing at Digha Road, Patna, P.S. - Rajiv Nagar, District - Patna.
4. Byanjana Kumari, daughter of Late Krishnandan Singh and Wife of Sri Dibyanshu Kumar, resident of Village - Bhirha, P.S. - Madini Chowki, District - Lakhisarai, presently residing in Village - Toralpur, P.S. - Suryagarha, District - Lakhisarai.
5. Ranjana Kumari, daughter of Late Krishnandan Singh and Wife of Sri Binay Kumar, resident of Village - Abgil, P.S. - Medini Chowki, District - Lakhisarai, and also in village - Toralpur, P.S. - Suryagarha, District - Lakhisarai.

... .. Petitioner/s

Versus

1. Mantun Kumar Yadav S/o Ramji Yadav resident of Village - Nista, P.O. and P.S. - Suryagarha, District - Lakhisarai.
2. Ashok Ram, Son of Yugal Ram, resident of Village - Nista, P.O. and P.S. - Suryagarha, District - Lakhisarai.
3. Ram Nandan Mahto, Son of Late Sadhu Sharan Mahto, R/o Village - Toralpur, P.O. - Mustafapur, P.S. - Surajgarha, District - Lakhisarai.
4. Anju Late Devi, Wife of Late Krishnanadan Singh, R/o of Village - Toralpur, P.O. - Mustafapur, P.S.- Suryagarha, District - Lakhisarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chetan Kumar, Advocate Mr. Pramod Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Amrit Abhijat, Advocate Mr. Manoj Kumar Gupta, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 30-06-2022

Heard learned counsel for the parties.



2. In the instant petition, petitioners have prayed for the following relief/reliefs:

“That this application under the supervisory jurisdiction of this Hon’ble Court, as conferred under Article-227 of the Constitution of India, is being filed for quashing the order dated 26.02.2020 (Annexure – P6), passed by the learned District Judge, Lakhisarai, on Misc. (Civil) Appeal No. 6/2019, dismissing the said appeal filed against the order dated 10.08.2018 (Annexure – P3) by the petitioners, passed by the learned Subordinate Judge, 1st Court, Lakhisarai, on T.S. No. 208/2016, dismissing the petition (Annexure-P1) filed under order 39, Rule-1 and 2 read with section – 151 of the Code of Civil Procedure, 1908, in short to be referred to as the code.”

3. In the Title Suit No. 208 of 2016, the petitioners/plaintiffs have sought for declaration and injunction in respect of subject land. The Subject land was stated to have been sold by petitioners’ father to one Mr. Mantu Yadav. The petitioners’ plea is that they were not aware of the sale transaction among Krishnandan Singh, father of the petitioners and Mantu Yadav which took place in the year 1989. Now the petitioners are disputing the sale deed which was executed in a suit filed in the year 2016. The petitioners’ injunction petition was dismissed under Order 39 Rule 1 and 2 read with 151 C.P.C. Thus, petitioners preferred Misc. (Civil) Appeal No. 6 of 2019 and it was rejected on 26.02.2020. Hence, the petitioners have presented this petition.

4. Learned counsel for the petitioners vehemently contended that learned District Judge in its order dated 26.02.2020



has not examined condonation of delay of 265 days in presenting Misc. (Civil) Appeal No. 6 of 2019.

5. Peruse the memorandum of appeal No. 6 of 2019, sufficient cause has not been shown to condone 265 days delay for the reasons that petitioners were stated to have filed an application for issuance of a certified copy in respect of rejection of injunction application. Such application was rejected on 16.08.2018. Between 16.08.2018 and 03.06.2019, the date on which fresh application was submitted in obtaining certified copy, there is no explanation. That apart the petitioners have not made any efforts as to what is the reasons for rejection of first application for obtaining certified copy and its rejection on 16..08.2018.

6. Perusal of the records, it is evident that at every stage there is a delay on the part of the petitioners, therefore, the petitioners have not made out *prima facie* case so as to interfere with the impugned order dated 26.02.2020.

7. Accordingly, petition stands dismissed.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	04.07.2022
Transmission Date	

