

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.202 of 2021

1. Md. Nuruddin @ Noor Mohammad son of late Gulam Navi, resident of Village and P.O.- Paiktola, P.S.- Araria, District- Araria.
2. Mosmat Rajia Khatoon Wife of Md. Aiyoob Alam @ Md. Aiyub, resident of Village and P.O.- Paiktola, P.S.- Araria, District- Araria.
3. Md. Abid son of Md. Aiyub, resident of Village and P.O.- Paiktola, P.S.- Araria, District- Araria.
4. Md. Jahid son of Md. Aiyub, resident of Village and P.O.- Paiktola, P.S.- Araria, District- Araria.
5. Md. Sahid son of Md. Aiyub, resident of Village and P.O.- Paiktola, P.S.- Araria, District- Araria.
6. Md. Shadique son of Md. Aiyub, resident of Village and P.O.- Paiktola, P.S.- Araria, District- Araria. Petitioner/s

Versus

1. Md. Abbas son of Late Gulam Navi, resident of Village and P.O.- Paiktola, P.S.- Araria, District- Araria.
 2. Md. Naim son of Late Gulam Navi, resident of Village and P.O.- Paiktola, P.S.- Araria, District- Araria. Respondent/s
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Appearance :

For the Petitioner/s	:	Mr.Rajiv Ranjan Kr. Pandey
For the Respondent/s	:	Mr.Shashi Nath Jha

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

CAV ORDER

4 18-04-2022 The learned counsel for the petitioner is directed to remove all the defects pointed out by the office within one month.

I have already heard the learned counsel for the petitioners as well as the learned counsel for the respondents.

By the impugned order dated 21.01.2021, the learned Sub Judge-VII, Araria has disposed of two petitions i.e. one was filed on behalf of the defendants dated 05.01.2021 for recalling the evidence and second for rejecting the petition dated 06.01.2021



filed by the petitioners-plaintiffs under Order VI, Rule 17 of the Code of Civil Procedure to delete some plots from the schedule of the plaint of Title Partition Suit No. 51/2000.

The learned counsel for the petitioners has submitted that he filed a petition before the learned trial court to delete two plots from the suit property, which was illegally rejected by the trial court by the impugned order.

By petition dated 06.01.2021, a prayer has been made by the plaintiffs-petitioners to delete plot no.54 and plot no. 59, appertaining to Khata no. 2, Area 43 decimal and 31 decimal respectively. That application was opposed by the defendants on the ground that it was filed at the belated stage of argument and also on the ground that the amendment, if allowed, shall cause prejudice to the defendants, as the defendants have led their evidence on the pleadings of the plaintiffs. It has also been submitted that since the plaintiffs have disposed of these two plots, as such, they want those plots to be deleted from the schedule of the plaint.

The defendants have already led their evidence controverting the pleadings of the plaintiffs and thereafter, the plaintiffs are willing to delete those plots. In my opinion, if those plots are deleted, it shall cause prejudice to the defendants-respondents as the defendants have adduced their evidence also



regarding these two plots.

As such, I do not think it proper to interfere with the impugned order. Accordingly, this civil miscellaneous petition is dismissed.

Office shall ensure that all defects are removed by the petitioner within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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