

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.13 of 2014

Smt. Sunita Devi W/O Sri Ajay Kumar Resident Of Mohalla - Bhagwan Bazar Thana Road, Chapra, P.O. - Chapra, P.S. Bhagwan Bazar, District - Saran (Chapra).

... .. Petitioner/s

Versus

- 1.1. Most. Anita Devi widow of Late Vidit Chandra Prasad resident of Village Sisai, P.O. and P.S. Baniyapur, District- Saran, At present resident of 1010 B (Block), Kumhar Para Sonari, Jamshedpur, District- Singhbhum.
- 1.2. Prabhat Kumar son of Late Vidit Chandra Prasad resident of Village Sisai, P.O. and P.S. Baniyapur, District- Saran, At present resident of 1010 B (Block), Kumhar Para Sonari, Jamshedpur, District- Singhbhum.
- 1.3. Mukta Nand son of Late Vidit Chandra Prasad resident of Village Sisai, P.O. and P.S. Baniyapur, District- Saran, At present resident of 1010 B (Block), Kumhar Para Sonari, Jamshedpur, District- Singhbhum.
- 1.4. Kiran Kumari daughter of Late Vidit Chandra Prasad resident of Village Sisai, P.O. and P.S. Baniyapur, District- Saran, At present resident of 1010 B (Block), Kumhar Para Sonari, Jamshedpur, District- Singhbhum.
- 1.5. Bala Kumari daughter of Late Vidit Chandra Prasad resident of Village Sisai, P.O. and P.S. Baniyapur, District- Saran, At present resident of 1010 B (Block), Kumhar Para Sonari, Jamshedpur, District- Singhbhum.
- 1.6. Alpana Kumari daughter of Late Vidit Chandra Prasad resident of Village Sisai, P.O. and P.S. Baniyapur, District- Saran, At present resident of 1010 B (Block), Kumhar Para Sonari, Jamshedpur, District- Singhbhum.
2. Anjan Prasad Son of Late Hardeo Prasad resident of Village Sisai, P.O. and P.S. Baniyapur, District- Saran, At present resident of 1010 B (Block), Kumhar Para Sonari, Jamshedpur, District- Singhbhum.
3. Smt. Geeta Rani Devi W/O Shri Rameshwar Prasad D/O Late Hardeo Prasad Resident Of Mohalla - Thana Road, Bhagwan Bazar, P.O. Bhagwan Bazar, P.S. Bhagwan Bazar, District - Saran
4. Smt. Sandhya Mani Devi W/O Sunil Kumar Gupta, D/O Late Hardeo Prasad Resident Of Mohalla - Nuranganj, P.O. Sasaram, P.S. Sasaram, District - Rohtas
- 5.1. Naveen Kumar son of Late Rameshwar Prasad, resident of Village/Mohalla Thana Road, Bhagwan Bazar, P.O. and P.S. Bhagwan Bazar, District- Saran.
- 5.2. Praveen Kumar son of Late Rameshwar Prasad, resident of Village/Mohalla Thana Road, Bhagwan Bazar, P.O. and P.S. Bhagwan Bazar, District- Saran.
- 5.3. Pranav Kumar son of Late Rameshwar Prasad, resident of Village/Mohalla Thana Road, Bhagwan Bazar, P.O. and P.S. Bhagwan Bazar, District- Saran.
- 5.4. Nutan Kumari daughter of Late Rameshwar Prasad, resident of Village/Mohalla Thana Road, Bhagwan Bazar, P.O. and P.S. Bhagwan Bazar, District- Saran.
- 5.5. Punam Kumari daughter of Late Rameshwar Prasad, resident of Village/Mohalla Thana Road, Bhagwan Bazar, P.O. and P.S. Bhagwan Bazar, District- Saran.
6. Most. Sonamati Kuer W/O Late Shiv Prasad Gupta
7. Santosh Kumar Gupta S/O Late Shiv Prasad Gupta All Resident Of Village/Mohalla Thana Road, Bhagwan Bazar, District - Saran



8. Smt. Sanch Lata Kumari W/O Shree Sailesh Kumar, D/O Late Hardeo Prasad
Resident Of Village and P.O. Dayalpur, P.S. Janta Bazar, District - Saran

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Jitendra Kishore Verma, Advocate
Mr. Anjani Kumar, Advocate
Mr. Surendra Kishore Verma, Advocate
For the Respondent/s : Mr. Sanjay Kumar Jha, Advocate
Mr. Anant Kumar Bhaskar, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

17 31-08-2022 Heard learned counsel appearing for the parties.

2. This Civil Revision Application has been filed against the order dated 25.10.2013 passed by the learned District Judge, Saran at Chapra in Misc. Case No.74/2013 whereby and whereunder the Eviction Suit No. 38 of 2002 filed by the plaintiff/petitioner was transferred from the Court of Munsif-1, Chapra to the Court of Sub-Judge-VIII, Chapra where Title Suit No.490/2017 is pending.

Learned counsel for the opposite parties submits that this Civil Revision Application is not maintainable as there is no illegality in the impugned order and accordingly, this revision application is misconceived requires no interference.

It is submitted by the learned counsel for petitioner that the petitioner is the plaintiff who has filed Eviction Suit No.38/2012 on the ground of personal necessity in which the Application for making intervener defendants is pending. A



regular Title Suit No. 490 of 2007 has been filed on behalf of proposed intervener defendant praying inter alia for declaration of their title over the property in dispute on the basis of alleged sale deed dated 19.07.1983.

It is submitted that without any notice to the petitioner the impugned order of transfer of Eviction Suit has been passed. It is submitted that eviction suit, being tried according to summary/special procedure as enshrined under Section 14 of Bihar Building (Lease, Rent & Eviction) Control Act, 1982 (BBC Act) and it cannot be tried with regular title suit and issues in both suits are different.

Learned counsel for the petitioner submits that with respect to maintainability of this Civil Revision, this Court vide order dated 28.01.2014 has already held that in view of Para 36 of the Division Bench decision 2010 (2) PLJR-954 (Durga Devi Vs. Vijay Kumar Poddar) it was held that this Civil Revision Application is maintainable and accordingly, raising this question is not permissible at this stage.

He has further submitted that he has no objection that the Eviction Suit No. 38 of 2002 be decided by the Transferee Court, however, he has prayed to clarify that both the cases i.e. Title Suit No. 490 of 2007 and Eviction Suit No. 38/2002 which



are pending in the same court may not be proceeded analogously or side by side.

Learned counsel for the respondents submits that there is no such direction in the impugned order that both the matter shall be proceeded analogously or side by side and this Civil Revision is misconceived.

From perusal of the impugned order, it appears that there is no direction in the impugned order of the District Judge, Saran at Chapra for proceeding both the aforesaid cases analogously or side by side. It is submission of learned Counsel for parties that they have no objection that Eviction Suit No. 38/2002 may be decided by Transferee Court in accordance with law. It is clarified that the learned Court below shall decide both the aforesaid cases in accordance with law.

Accordingly, this Civil Revision Application is disposed of.

(Sunil Dutta Mishra, J)

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