

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.889 of 2018

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1. Hazra Begum wife of late Shamsher Ali,
2. Haider Ali son of late Shamsher Ali, both are R/O Mohalla-Chhota Sheikhpora, PO and PS-Sasaram (Town), Distt-Rohtas Petitioner/s

Versus

1. Ramzan Ali son of late Md. Siddique, R/O Mohalla-Chhota Sheikhpora, PO and PS-Sasaram (Town), Distt-Rohtas
2. Rakib Ali son of late Shamsher Ali,
3. Chandani d/o late Shamseher Ali, both R/O Mohalla-Chhota Sheikhpora, PO and PS-Sasaram (Town), Distt-Rohtas

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh, Adv.
For the Respondent/s : Mr. Md. Fazle Karim, Adv

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 29-08-2022 Heard Mr. Jitendra Prasad Singh, learned counsel for the petitioners and Mr. Md. Fazle Karim, learned counsel for the respondents.

2. The petitioner is aggrieved by order dated 26.04.2018 by which the petition filed by the brother of the petitioner under Section 10 of the Code of Civil Procedure for stay of the subsequent suit bearing Title Suit No. 946/2016 has been rejected.

3. Learned counsel for the petitioners submits that the petitioner is the sister of the respondents/plaintiffs in Title Suit No. 946/2016. She had filed a title partition suit bearing Title Suit No. 944/2016 for claiming her 1/5th share.

4. However, after some arguments, learned counsel



for the petitioners decided not to press the validity of the impugned order but at the same time, learned counsel submits that since the property involved in both the suits is the same and this Court has power under Section 24 of the CPC to transfer the suit to be tried together before a competent court having jurisdiction.

5. Learned counsel submits that partition suit filed by the petitioners is pending before Sub Judge-XII, Sasaram and the Title Suit for recovery of possession on the basis of gift deed executed by mother of the respondents is pending before Sub Judge-IX, Sasaram. Accordingly, the submission is that since the property involved in both the suits is same, both the suits may be tried either before Sub Judge-XII or before Sub Judge-IX, Sasaram.

6. Mr. Md. Fazle Karim, learned counsel for the respondents has got no objection to the aforesaid prayer and submitted that both the suits may be tried together by Sub Judge-IX, Sasaram.

7. In view of the aforesaid submissions, without interfering with the impugned order and with the consent of the parties Title Suit No. 944/2016 is directed to be transferred before Sub Judge-IX, Sasaram to be tried together along with



Title Suit No. 946/2016.

8. With the aforesaid observation and direction, the
petition stands disposed of.

(Anil Kumar Sinha, J)

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