

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.423 of 2021

Raghvendra Sahi @ Raghvendra Prasad Shahi Son of Late Dhanushalal Shahi, Resident of Village - Sahabajpur Salem, P.O.- Bhikhanpur Kothi, Police Station- Ahiyapur, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. Kamini Devi Wife of Dinesh Singh, resident of Village - Athari Rampur, P.S. Runnisaidpur, District - Sitamarhi. At present residing at Village - Sahabajpur Salempur, P.S. Ahiyapur, District - Muzaffarpur.
2. Dinesh Singh, Son of Late Ram Chandra Singh, resident of Village - Athari Rampur, P.S. Runnisaidpur, District - Sitamarhi. At present residing at Village - Sahabajpur Salempur, P.S. Ahiyapur, District - Muzaffarpur.
3. Most. Bachchi Devi, Widow of Late Ratneshwar Choudhary, Resident of Village- Sahabajpur Salem, Post Office- Bhikhanpur Kothi, Police Station- Sadar (Ahiyapur), District - Muzaffarpur.
4. Raj Kishore Singh, Son of Late Kashi Singh and mother Late Jugali Devi, Resident of Village and P.O.-Narma, Police Station- Hathouri, District - Muzaffarpur.
5. Dr. Awadhesh Singh, Son of Late Kashi Singh and mother Late Jugali Devi, Resident of Village and P.O.-Narma, Police Station- Hathouri, District - Muzaffarpur.
6. Janaki Devi Wife of Late Ram Sanjeevan Singh, Daughter of Late Kashi Singh and Jugali Devi, Resident of Village- Morsand, P.O. Mananpur, Police Station- Runnisaidpur, District - Sitamarhi.
7. Lalita Devi, Wife of Sitaram Singh and D/o Late Jugali Devi, Resident of Village and P.O. Chahuta, Police Station- Aurai, District - Muzaffarpur.
8. Nanhaki Devi, Wife of Shatrughan Singh and D/o Late Jugali Devi, Resident of Village and P.O. Chahuta, Police Station- Aurai, District - Muzaffarpur.
9. Prabhu Singh, Son of Late Tapeswar Singh and Mother of Late Ram Singari Devi, Resident of Village and P.O. Narma, Police Station- Hathouri, District - Muzaffarpur.
10. Ram Kishore Singh, Son of Late Tapeswar Singh and Mother of Late Ram Singari Devi, Resident of Village and P.O. Narma, Police Station- Hathouri, District - Muzaffarpur.
11. Kailash Devi Wife of Late Chandra Kishore Singh, Resident of Village - Morand, P.O.- Mananpur, Police Station- Runnisaidpur, District - Sitamarhi.
12. Ram Binay Singh, Son of Late Ramasish Singh and Ukachhi Devi, Resident of Village - Morsand, P.O. Mananpur, Police Station- Runnisaidpur, District - Sitamarhi.
13. Dharmshila Devi Wife of Bhogendra Sah and Mother of Ukashi Devi, Resident of Village and P.O. Sahi Meenapur, P.S. Aurai, District - Muzaffarpur.



14. Usha Devi D/o of Ukashi Devi, W/o Raghvendra Singh, Resident of Village and P.O. Athari, P.S. Runnisaidpur, District - Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Garg, Advocate
For the Respondent/s : Mr. Manoj Kumar Manoj, Advocate

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

Date : 29-06-2022

Heard learned counsel for the parties.

2. In the instant petition, petitioner has prayed for the following relief/reliefs:

“(i) For issuance of an appropriate writ/order/direction, for quashing the order dated 13.04.2021 passed by Learned Sub Judge 1st (East), Muzaffarpur in Misc. Case No. 07 of 2017 (arising out of Execution case No. 01 of 2007 and P.S. No. 74 of 1965) whereby the Learned court below has allowed the application dated 03.04.2021 filed by Respondent no. 1 and 2 Under Order 21 Rule 97 to 101 and 151 C.P.C. in Misc case no. 01/2007 till disposal of Misc. petition.

(ii) For issuance of an appropriate writ/order/direction, for direction the Learned Executing court to decide the Execution case No. 01 of 2007 filed by the petitioner as well as Misc. case No. 07 of 2017 filed by respondent no. 1 and 2 within short span of time and as well as within Time limit framed by larger bench of Hon’ble Apex Court in **Civil Appeal No. 1659-1660 of 2021 (Rahul S Shah Vs. Jinendra Kumar Gandhi and others)** reported in **2021 (3)BLJ 412 (SC)** vide judgement dated 20.04.2021 by which Hon’ble Apex court has directed to the Executing courts to decide the execution case within six months.



(iii) For grant of any relief(s) the petitioners would be found entitled to in the facts and circumstances of the case.”

3. Perusal of the record, it is evident that Execution Case No. 01 of 2007 wherein the respondents have filed application for staying the execution proceedings on 03.04.2021 on behalf of respondent Nos. 1 and 2. The Executing Court has stayed the order on 13.04.2021. The respondent Nos. 1 and 2 stated to be subsequent purchaser of the subject land during pendency of the suit filed in the year 1965. Such purchase of land was in the year 1976. From 2007 to 2021 respondent Nos. 1 and 2 have not taken note of pendency of Execution Case No. 01 of 2007 so as to stall the proceedings. On the other hand they have taken 14 years to make an application.

4. The Sub Judge 1st (East), Muzaffarpur has not apprised the aforesaid issue relating to delay and laches on the part of the respondent Nos. 1 and 2. In the light of these facts and circumstances, the petitioner has made out a case so as to interfere with the order dated 13.04.2021 passed by the Sub Judge 1st (East, Muzaffarpur) in Misc. Case No. 07 of 2017 arising out of Execution Case No. 1 of 2007 and P.S. No. 74 of 1965. Accordingly, order dated 13.04.2021 stands set aside.

5. In respect of second prayer is concerned, it is left to the respective parties to approach before the jurisdictional forum.



Parties are also hereby directed to approach jurisdictional forum in respect of other reliefs, if any. In the light of the aforesaid order, petition stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	01.07.2022
Transmission Date	

