

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.750 of 2022

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Musst. Fulia Devi @ Masomat Fuliya Devi W/o Late Dilchand Prasad, D/o Nathu Tanti, R/o Mohalla-Chhitabari, P.O.-Belwa, P.S.-Mufassil, District-Katihar.

... .. Petitioner/s

Versus

1. Nitish Kumar S/o Sri Shrawan Kumar Das, minor represented through their father and natural guardian Sri Shrawan Kumar Das, R/o Mohalla-Shiv Nagar, Newalal Chowk, P.S.-K. Hat, District-Purnea.
2. Priyanka Kumari, D/o Sri Shrawan Kumar Das, minor represented through their father and natural guardian Sri Shrawan Kumar Das, R/o Mohalla-Shiv Nagar, Newalal Chowk, P.S.-K. Hat, District-Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Baxi S.R.P. Sinha, Sr. Adv. Mr. Rupesh Kumar
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 24-11-2022 Heard learned Senior Counsel for the petitioner.

The petitioner is the defendant no. 1 in Title Partition Suit No. 72 of 2007 and is aggrieved by the order, dated 26.07.2022, passed in Misc. Appeal No. 05 of 2019, by which learned District Judge, Katihar, has affirmed the order, dated 10.04.2019, passed by learned Munsif, Katihar, in Title Partition Suit No. 72 of 2007.

Learned Senior Counsel for the petitioner submits that the petitioner, being defendant no. 1, is having one-third share in the suit property. She has been suffering from various diseases, due to which she is in need of money, which she managed by



selling the suit property within her share. He next submits that even if the petitioner has sold the property earlier, the same shall be adjusted in the share of the petitioner and it is not the case of the plaintiffs that the entire one-third share of the petitioner has been sold by her.

Having heard learned Senior Counsel for the petitioner and after going through the materials available on record, it transpires that both the Courts below have arrived at the conclusion that there is prima facie case in favour of the plaintiffs and during the pendency of the suit, the defendant no. 1 has sold many of the suit properties. Though, the Courts below has restrained the petitioner from selling the suit property, it has given liberty that the petitioner can sell the suit property with the permission of the Court.

In view of the aforesaid observation of the learned Courts below and the fact that liberty has been granted to the petitioner to sell the suit property with the permission of the Court, I do not find any infirmity in the impugned orders.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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