

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1259 of 2018**

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Durga Dayal Sah S/o Late Lakhi Chand Sah, R/o Village P.O.- Line Bazar,
P.S.- Mirganj, District- Gopalganj.

... .. Petitioner/s

Versus

1. Tulsi Prasad and Ors S/o Late Kishori Prasad, R/o Village- Line Bazar,
P.S.- Mirganj, District- Gopalganj.
2. Anirudd Singh, S/o Late Radha Kushun Singh, R/o Village- Line Bazar,
P.S.- Mirganj, District- Gopalganj.
3. Birendra Sah, S/o Late Lakhi Chand Sah.
4. Laxmina Devi, D/o Late Lakhi Chand Sah. Both R/o Village- Line Bazar,
P.S.- Mirganj, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Baidya Nath Thakur, Adv.
For the Respondent/s	:	None

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 05-09-2022 Heard Mr. Baidya Nath Thakur, learned counsel for
the petitioner.

2. No one appears for the respondents.

3. Petitioner is plaintiff in Title Suit No. 71 of 2014.

By the impugned order the trial court has refused to consolidate
and/or club the Title Suit No. 71 of 2014 along with Title Suit
No. 40 of 2014 filed by the Respondent no.1. Both the suits are
pending in the same court.

4. Learned counsel for the petitioner submits that
Title Suit bearing No. 14/2014 was filed by Respondent No. 1
for declaration of sale-deed executed in favour of the petitioner



by Respondent No.2 in respect of the properties situated at Khata No. 145, Plot No. 316 having an area of 2.5 Dhurs in Mouza Line Bazar, PS-Mirganj, District-Gopalganj, inoperative and null and void. It is further case of the petitioner that the aforesaid property was purchased by the petitioner from the same vendor prior to the sale deed executed in favour of Respondent No.1. For declaration of title pursuant to the sale deed and for declaring the sale deed executed in favour of Respondent No.1 as null and void, the petitioner filed the Title Suit No. 71/2014. Both the suits are pending in the court of Sub-Judge-IX, Gopalganj. The prayer of the petitioner for consolidation and for clubbing together both the title suits has been rejected by the learned trial court without assigning any reason.

5. In support of his argument, learned counsel for the petitioner relied upon a judgment of Hon'ble Supreme Court passed in the case of ***Prem Lala Nahata & Anr v. Chandi Prasad Sikaria*** as reported in ***(2007) 2 SCC 551*** and submits that it has been held by the Hon'ble Supreme Court that the court has power to consolidate suits in appropriate cases and the main purpose of consolidation is to save costs, time and effort and to make the conduct of several actions more convenient by



treating them as one action. The jurisdiction to consolidate the case arises where it appears to the court that some common question of law or fact arises in both or all the suits or that the rights to relief claimed in the suits are in respect or arise out of the same transaction or series of transactions; or that for some other reason it is desirable to make an order consolidating the suits.

6. Accordingly, the submission of learned counsel is that the vendor of both the sale deeds is the same and a common question of law and fact is involved in the matter inasmuch as the petitioner has purchased the land prior to the sale deed executed in favour of Respondent No.1 by the same vendor. Further submission is that from perusal of the impugned order, it appears that without assigning any reason, the court has refused to club both the cases together for trial.

7. I have heard learned counsel for the petitioner.

8. From perusal of the material on record, it appears that the sale deed executed in favour of the petitioner by his vendor has been challenged by Respondent No.1 in Title Suit No. 40/2014 whereas the sale-deed executed in favour of Respondent No. 1 has been challenged by the petitioner in Title Suit No. 71/2014. It also appears that the same land is involved



in both the sale-deeds. The parties in both the suits are the same. The learned trial court did not take into consideration that both the parties are the same, the vendor of both the purchasers is same and the subject matter of the suit also appears to be the same, accordingly, in my opinion, the court below has not exercised its jurisdiction properly and has committed material irregularity while rejecting the petition filed by the petitioner for clubbing both the cases together for trial.

9. In that view of the matter, the order dated 04.06.2018 passed by the Sub-Judge-IX, Gopalganj in Title Suit No. 71/3014 is set aside and the learned trial court is directed to consolidate/club the Title Suit No. 40/2014 and Title Suit No. 71/2014 together and the same be tried together.

10. The petition stands allowed.

(Anil Kumar Sinha, J)

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