

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.749 of 2018

1. Executive Officer, Nagar Panchayat, Naugachia namely Ram Bilash Das Son of Late Bhuto Das, Resident of Village- Navtolia, P.O.- Saraiya, P.S.- Chautham, District- Khagaria.
2. Chief Councilor, Nagar Panchayat, Naugachia, District- Bhagalpur namely Priti Kumari.

... .. Petitioner/s

Versus

2. Raj Kumar Sah, Son of Late Baldev Prasad Sah resident of Village- Durga Asthan Road, Ward No.21, P.O.P.S.- Naugachia, District- Bhagalpur.
3. Rajesh Kumar Sah, son of Late Baldev Prasad Sah, resident of Village- Durga Asthan Road, Ward No.21, P.O.P.S.- Naugachia, District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar Gupta, Advocate
For the Respondent/s	:	Mr. Sharda Nand Mishra, Advocate
		Mr. Deepak Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

8 01-02-2023 Heard learned counsel for the parties.

2. This Civil Miscellaneous Application has been filed for quashing the order dated 20.02.2018 passed by learned Additional District Judge-1st, Naugachia in Miscellaneous Appeal No. 04/2017 by which the appellate Court below allowed the appeal, filed against the order dated 28.02.2017 passed by learned Munsif, Naugachia in Title Suit No. 76/2018 by which petition filed under Order 39 Rule 1 C.P.C. for grant of injunction against the defendants/petitioners for restraining the demolition of any part of the building of plaintiffs/respondents, has been rejected.



3. Learned counsel for the petitioners submits that he has challenged the order dated 20.02.2018, mainly aggrieved by the observation of the learned appellate court below in which he has given the finding as follows:

“As far as it is admittedly clear that the house of plaintiff is standing over the suit land since 1965 and hence it is well clear that the title and possession over the suit land is vested to the plaintiff appellant and hence there is no question to declare again the title and possession of the plaintiff.”

4. Learned counsel for the petitioners submits that the suit is pending for disposal before the Court concerned. However, the appellate court below has given specific finding with respect to title and possession over the suit land which was not required at this stage and which may also affect the trial of the suit and the same may be expunged from the impugned order. He has prayed to dispose of this case with the direction to expunge the said observation from the impugned order.

5. Learned counsel for the respondents submits that he has no objection if aforesaid observation/finding as stated above in the impugned order may be treated as expunged.

6. In view of the submission of the learned counsel for the parties and going through the impugned order, it appears that



the said specific finding/observation with respect to title and possession on suit property was not required at the said stage accordingly, the said observation be treated as expunged from the impugned order.

7. Accordingly, this Civil Miscellaneous Application is disposed of with the aforesaid direction.

(Sunil Dutta Mishra, J)

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