

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.193 of 2022

1. Md. Jalaluddin, S/o Late Sagira Khatoon @ Gulab (Mother), father name Late Masaleuddin, resident of Village-Mdhuban, P.S.-Bajpatti, District-Sitamarhi.
2. Md. Shahabuddin, S/o Late Sagira Khatoon (Mother), father name Late Masaleuddin, resident of Village-Mdhuban, P.S.-Bajpatti, District-Sitamarhi.
3. Md. Sagir, S/o Late Sagira Khatoon (Mother), father name Late Masaleuddin, resident of Village-Mdhuban, P.S.-Bajpatti, District-Sitamarhi.
4. Md. Kalimullah, s/o Late Saleha Khatoon @ Malkan Marhum (Mother), father name Late Ataur Rahman, resident of Village, P.O. and P.S.-Jale, District-Darbhanga.

... .. Petitioner/s

Versus

Bibi Sakila Khatoon, W/o Jeyaul Hoda @ Lalbabu Dikhtar Md. Mazaahrul Haque Marhum, resident of Village-Bhasepur, P.S.-Bajpatti, P.O.-Bajpatti, District-Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumod Kumar Shrivastaw, Advocate
For the Respondent/s : Mr. Mahendra Thakur, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 13-10-2023 Heard learned counsel for the parties.

2. The present application has been filed for setting aside the order dated 25.03.2021 passed by the learned Sub Judge-1, Pupari in Partition Suit No. 100 of 2007, by which the learned Sub Judge has dismissed the intervenor petition filed by the petitioners.

3. The Intervention Application of the grandsons (natis) have been rejected on the ground that the property in question is recorded in the name of the plaintiff's father and,



therefore, the petitioners have no right to be added as party as under Muslim law, the petitioners do not have any right over the property in question. Whether the petitioners have right over the property or not can be decided in the suit and not at the stage of Intervention Application.

5. In the opinion of this Court, when the relationship is admitted, the Intervention Application dated 05.03.2020 of the petitioners for being added as a party has to be allowed and, therefore, the same is allowed.

6. In view of the above, the impugned order dated 25.03.2021 passed by learned Sub Judge-1, Pupari in Partition Suit No. 100 of 2007 is hereby quashed.

(Sandeep Kumar, J)

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