

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.379 of 2022

1. Md. Majloom Son of Late Mohiuddin Resident of Village- Pokhar Tola, Miyan Bazar, P.S.- Sadar, District- Purnea.
2. Obedur Rahman Son of Md. Majloom Resident of Village- Pokhar Tola, Miyan Bazar, P.S.- Sadar, District- Purnea.
3. Mohidur Rahman Son of Md. Majloom Resident of Village- Pokhar Tola, Miyan Bazar, P.S.- Sadar, District- Purnea.

... .. Petitioner/s

Versus

1. Md. Mansoor Son of Late Mohiuddin Resident of Village- Pokhar Tola, Miyan Bazar, P.S.- Sadar, District- Purnea.
2. Bibi Ujlefa Daughter of Late Mohiuddin, W/o Najmuddin Resident of Began Tola, Chimni Bazar, P.O.- Purnea City, P.S.- Sadar, District- Purnea.
3. Bibi Kabiran Daughter of Late Mohiuddin, W/o Md. Najam Resident of Kheriya Tinpaniya, P.O. and P.S.- Korha, District- Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ragheb Ahsan, Sr. Advocate Mr. Wasi Akhtar, Advocate Mr. Saba Ashfaque, Advocate Mr. Ashar Akhtar, Advocate
For the Respondent/s	:	None

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 31-10-2023 Heard learned senior counsel for the petitioners.

2. None appears on behalf of respondent nos. 1 to 3 despite valid service of notice.

3. The present petition has been filed for quashing the order dated 13.05.2022 passed by the learned Additional District and Sessions Judge 9th, Purnia in Title Appeal No. 47 of 2020, by which the application dated 25.03.2022 filed by the respondents for staying the preparation of final decree



proceeding has been allowed and the final decree case No. 7 of 2020 pending before the Sub Judge-1, Purnia has been stayed till the dispose of the appeal.

4. The ancillary question about the paternity of the plaintiff Md. Majloom has been decided by the Court below in the partition suit and doubting the stay order has been passed.

5. In my opinion, the ancillary question decided by the Court below is not barred under law and therefore, the impugned order dated 25.03.2022 for staying the preparation of final decree pending in the Court of Sub Judge-1, Purnia is hereby quashed.

6. In the meantime, further proceedings of final decree Case No. 7 of 2020 pending before the Sub Judge-1, Purnia shall continue, in accordance with law.

7. With the aforesaid observation and direction, this application is allowed.

(Sandeep Kumar, J)

P. Kumar

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