

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1366 of 2019

1. Badamia Devi, aged about 90 years (Female) Wife of Late Gongu Mochi.
2. Saheb Mochi, aged about 63 years (Male) Son of Late Gongu Mochi.
Both resident of Village-Lakho, P.S.-Muffassil, Sub-Division and District-Begusarai.
3. Suma Devi, aged about 52 years (Female) Daughter of Gongu Mochi and Wife of Anand Lal Das @ Sheonandan Ram, Resident of Village-Bachhauta, P.S. + P.O. and District-Khagaria.

... .. Petitioner/s

Versus

1. Maheshwar Mochi, aged about 67 years.
2. Jhanjhat Mochi, aged about 42 years.
Both respondent nos. 1 and 2 are sons of Late Munilal Mochi.
3. Sukho Devi, aged about 55 years.
4. Utto Devi, aged about 50 years.
5. Tara Devi, aged about 45 years.
6. Asha Devi @ Ashia Devi, aged about 60 years.
Respondent nos. 3 to 6, Daughter of Late Muni Lal Mochi, Mufassil, Pergana Balia, Sub-Division and District-Begusarai.
7. Ram Ratan Mochi, aged about 36 years.
8. Pawan Mochi, aged about 32 years.
Both respondent nos. 7 and 8 are sons of Late Puna Mochi.
9. Triveni Mochi, aged about 76 years, Son of Late Jago Mochi.
All residents of Village- Lakho, P.S.-Mufassil, Pargana Balia, Sub-Division and District-Begusarai.
10. Mahadeo Mochi, aged about 66 years.
11. Rajo Mochi, aged about 60 years.
Both respondent nos. 10 and 11 are sons of Late Gongu Mochi.
Both respondent nos. 10 and 11 are residents of Village Lakho, P.S.-Mufassil, Pargana Balia, Sub-Division and District-Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rudal Prasad, Advocate
For the Respondent/s : Mr.



CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT

Date : 07-08-2023

Heard learned counsel for the petitioners.

2. This Civil Miscellaneous Application has been filed for setting aside the order dated 20.05.2019 passed by the Court of learned Munsif, Begusarai in Title Execution Case No. 05 of 2007 whereby the learned Court below has allowed the amendment petition under Order 6 Rule 17 read with Section 151 CPC.

3. Learned counsel for the petitioners submits that by the impugned order the amendment petition dated 21.12.2018 filed on behalf of the decree holder is allowed by which “Two Pucca” written in execution petition at page no. 9 in Schedule-I have been deleted and in its place “Khaprail” is inserted. He has apprehension that the executing Court may evict the two “Khaprail” rooms of the petitioners. On consent of the learned counsel for the petitioners this case is being disposed of at this stage after hearing of the learned counsel for the petitioners.

4. Heard learned counsel for the petitioners and perused the impugned order. In the impugned order the learned executing Court has observed that the details of suit land is given in Schedule-II of the decree dated 23.08.2016 as 15 feet north to south 7 & 1/2 feet east to west Khaprails room having boundary



North-Plaintiff, South-Plaintiff, East-Plaintiff and West-Plaintiff situated at Mauza-Lakho, Pergana-Balia, Thana No. 337, Tauzi No. 4035, Khata No. 63, Khesra No. 342 and District-Begusarai, but in the execution petition details of land over which the delivery of possession be effected is given in Schedule-I. The other description of the suit land is same except the endorsement of two Pucca room in the place of Khaprails room. Since the execution is limited to the extent of original decree and Decree holder accepted that wrong endorsement of the suit land is mentioned in Schedule-I of the Execution Petition. Therefore, in order to effect execution correctly according to the decree the said amendment petition was allowed on cost.

5. The learned executing Court below has categorically stated that the execution is limited to the extent of original decree, accordingly, allowed the correction in the execution petition in accordance with the original decree.

6. In view of the aforesaid, this Court finds no jurisdictional error or illegality in the impugned order. The Civil Miscellaneous Application is devoid of merit and liable to be rejected.

7. This Civil Miscellaneous Application is accordingly, dismissed. The learned Court below is directed to expedite the



disposal of the Title Execution Case No. 05 of 2007, if it not
disposed of, in accordance with the law.

(Sunil Dutta Mishra, J)

Anand Kr.

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

