

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.884 of 2022

Mahendra Kumar Sinha @ Mahendra Kumar, aged about 71 years, Male, Son of late Babu Kailashpati Sinha, Permanent resident of Village- Bahadurpur, P.O. and P.S.- Chandi, District- Nalanda at Biharsharif- 803108, presently residing at Kailashpati Bhawan, Mohalla- Kamruddinganj, P.O.- Biharsharif, P.S.- Laheri, District- Nalanda at Biharsharif- 803101.

... .. Petitioner/s

Versus

1. Kameshwar Prasad Singh, aged about 81 years, Male, Son of late Munshi Mahto.
2. Nagmani Prasad, aged about 52 years, Male, Son of Kameshwar Prasad Singh.
3. Indrajeet Kumar, aged about 46 years, Male, Son of Kameshwar Prasad Singh.
4. Munna, aged about 38 years, Male Son of Kameshwar Prasad Singh.
All are resident of Village- Bahadurpur, P.O. and P.S.- Chandi, District- Nalanda at Biharsharif- 803108.

..... Plaintiffs/ respondents 1st Set

5. Parmeshwari Devi @ Chandraprabha Devi, aged about 71 years, Female Wife of Late Sheonandan Prasad Singh.
6. Ambuj Kumari, aged about 50 years, Female, Daughter of Late Sheonandan Prasad Singh. wife of Sri Mahesh Prasad.
7. Kumari Pushpanjali, aged about 47 years, Female, Wife of Late Ashutosh Kumar.
8. Rudranjali Prabha, aged about 20 years, Female, Daughter of Late Ashutosh Kumar.
9. Nibha Kumari, aged about 40 years, Female, Wife of Late Ashok Kumar @ Alok Kumar.
10. Lokesh Singh, aged about 18 years, Male Son of late Ashok Kumar @ Alok Kumar.
11. Ajit Kumar @ Pappu Kumar, aged about 44 years, Male Son of Late Sheonandan Prasad Singh.
12. Shyam Sundar Prasad Sinha @ Shyam Sundar Prasad, aged about 75 years, Male, Son of Late Kailashpati Sinha.
13. Aashish Ranjan @ Tunni Kumar, aged about 43 years, Male Son of Shyam Sundar Prasad Sinha.
14. Jeetendra Kumar Sinha @ Shibu Kumar, aged about 46 years, Male Son of Mahendra Kumar Sinha @ Mahendra Kumar.
All are resident of Village- Bahadurpur, P.O. and P.S.- Chandi, District- Nalanda at Biharsharif- 803108. Presently residing at Kailashpati Bhawan, Mohalla- Kamruddinganj, P.O.- Biharsharif, P.S.- Laheri, District- Nalanda at Biharsharif- 803101.

..... Defendants/Respondents 2nd Set



15. Asha Devi, aged about 60 years, Female, D/o Late Ram Sharan Mahto.
16. Sona Devi, aged about 57 years, Female, D/o Late Ram Sharan Mahto.
17. Malti Devi, aged about 55 years, Female D/o Late Ram Sharan Mahto.
18. Kiran Devi, aged about 52 years, Female D/o Late Ram Sharan Mahto.
19. Nirmala Kumari, aged about 65 years, Female, Wife of Late Shrawan Kumar.
20. Guriya, aged about 38 years, Female D/o Late Shrawan Kumar.
21. Ram Kishun Prasad, aged about 48 years, Male Son of late Ram Sharan Mahto.
22. Kaushal Kumar, aged about 43 years, Male Son of Late Ram Sharan Mahto.
23. Guddu, aged about 44 years, Male Son of Late Shrawan Kumar.
24. Munna, aged about 51 years, Male Son of Late Shrawan Kumar.
25. Sumangali Devi, aged about 78 years, Female, Wife of Late Shyam Narayan Prasad.
26. Snehlata Devi, aged about 60 years, Female D/o Late Shyam Narayan Prasad, Wife of Late Satendra Kumar.
27. Sukhiya Devi, aged about 72 years, Female, Wife of Late Parmanand Prasad.
28. Sushila Devi, aged about 55 years, Female D/o Late Parmanand Prasad.
29. Krishna Prasad, aged about 70 years, Male Son of Late Chhotu Mahto.
30. Ram Nandan Prasad, aged about 65 years, Male Son of Late Chhotu Mahto.
31. Chunnu Kumar, aged about 52 years, Male Son of Late Parmanand Prasad.
32. Shambhu Kumar, aged about 50 years, Male Son of Late Parmanand Prasad.
33. Tunnu Kumar, aged about 53 years, Male Son of Krishna Prasad.
34. Ashok Kumar, aged about 50 years, Male Son of Krishna Prasad.
35. Arbind Kumar, aged about 45 years, Male Son of Krishna Prasad.
36. Ajay Kumar, aged about 38 years, Male Son of Ram Nandan Prasad.
37. Vijay Kumar, aged about 36 years, Male Son of Ram Nandan Prasad.
38. Dularchand, aged about 85 years, Male Son of Late Sadhu Mahto.
All are resident of Village- Bahadurpur, P.O. Chandi, P.S.- Chandi, District-
Nalanda at Biharsharif.

.....Defendants/Respondents 3rd Set

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jeetendra Narayan, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER



2 05-07-2023 Heard learned counsel for the petitioner.

2. This Civil Miscellaneous Application has been filed under Article 227 of the Constitution of India against the order dated 15.09.2022 passed by the learned Sub-Judge-I, Nalanda at Bihar Sharif in Title Suit No. 123 of 1987 whereby the evidence on behalf of defendant/ petitioner has been closed.

3. Learned counsel for the petitioner submits that on 15.09.2022, unfortunately the witness namely, Mahendra Prasad was fallen ill and was not able to attend the Court so a petition for time was filed on that day but the learned Court below has rejected the time petition and closed the evidence of the petitioner and put the record for argument. He further submits that petitioner has not delayed the proceeding but due to illness the said witness was unable to attend the Court but the learned Court below not given further time and rejected the time petition of the petitioner.

4. He further submits that the petitioner has filed interlocutory applications including the recall of the impugned order which are pending before the trial Court.

5. Heard the learned counsel for the petitioner and perused the material on record. From perusal of the impugned order, it appears that Title Suit is very old and is of the year



1987 and the last opportunity was earlier given to the defendant/petitioner, but on 15.09.2022 also the petitioner failed to produce the said witness. Accordingly, the Court closed the evidence of witness on behalf of the defendant.

6. The learned Court below in the facts and circumstances of the case closed the evidence of the defendant, and this Court find no valid reason for interference in the impugned order under the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

7. This Civil Miscellaneous petition is devoid of merit, accordingly dismissed at the admission stage.

8. The trial Court is directed to expedite the disposal of the case in accordance with law without giving any unnecessary adjournment to any party and fix the hearing in the case preferably on day to day basis.

(Sunil Dutta Mishra, J)

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