

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.93 of 2024

1. Sunil Kumar Son of Late Amrit Singh, resident of Mohalla Duzra Road, P.S. Buddha Colony, District Patna.
2. Smt. Malti Kumari, W/o of Shri Sunil Kumar, resident of Mohalla - Duzra Road, P.S. - Buddha Colony, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Gaya, Collectorate Compound Gaya, P.O. and P.S. Gaya, District - Gaya, Pin - 823001.
2. The Additional Collector Ravenue Gaya, P.O. and P.S. Gaya, District - Gaya, Pin - 823001.
3. The Deputy Collector Land Reforms, Gaya, P.O. and P.S. Gaya, District - Gaya, Pincode - 823001.
4. The Circle Officer, Bodh Gaya, Anchal Bodh Gaya, P.O. and P.S. Bodh Gaya, District Gaya, Pin - 823001.
5. Madheshwar Yadav, Son of Late Chandradeo Yadav, Resident of Village - Lodipur, P.O. Bodh Gaya, P.S. Paraiya, District - Gaya, Pin - 824209.
6. Sabitri Bharti, D/o Late Sadhu Yadav and W/o Maheshwar Yadav, resident of Village - Dhanawa, P.S. - Bodh Gaya, P.O. - Bodh Gaya, District - Bodh Gaya, Pin - 823004.
7. Vinod Kumar @ Vinod Sharma, S/o Late Devanchand Sharma, resident of Gali No. - 1, Indra Batty Pathankot, P.S. - Pathankot, Punjab, Pin - 154001, Adhar No. - 687078811585.
8. Ratan Gope, Son of Late Bachan Gope, resident of village- Dhanawa, P.O. - Bodh Gaya, P.S. - Bodh Gaya, District- Gaya, Pin - 824231.
9. Vijay Yadav, Son of Late Bachan Gope, resident of village- Dhanawa, P.O. - Bodh Gaya, P.S. - Bodh Gaya, District- Gaya, Pin - 824231.
10. Mahabir Yadav, Son of Late Bachan Gope, resident of village- Dhanawa, P.O. - Bodh Gaya, P.S. - Bodh Gaya, District- Gaya, Pin - 824231.
11. Indradeo Yadav, Son of Late Bachan Gope, resident of village- Dhanawa, P.O. - Bodh Gaya, P.S. - Bodh Gaya, District- Gaya, Pin - 824231.
12. Surendra Yadav, Son of Late Bachan Gope, resident of village- Dhanawa, P.O. - Bodh Gaya, P.S. - Bodh Gaya, District- Gaya, Pin - 824231.
13. Murari Yadav, S/o Raghu Yadav, resident of village- Dhanawa, P.O. - Bodh Gaya, P.S. - Bodh Gaya, District- Gaya, Pin - 824231.
14. Ishwar Yadav, Son of Late Murari Yadav, resident of village- Dhanawa, P.O. - Bodh Gaya, P.S. - Bodh Gaya, District- Gaya, Pin - 824231.
15. Keshwar Yadav, Son of Late Murari Yadav, resident of village- Dhanawa, P.O. - Bodh Gaya, P.S. - Bodh Gaya, District- Gaya, Pin - 824231.
16. Dinesh Yadav, Son of Late Murari Yadav, resident of village- Dhanawa, P.O. - Bodh Gaya, P.S. - Bodh Gaya, District- Gaya, Pin - 824231.



17. Umesh Yadav, Son of Late Murari Yadav, resident of village- Dhanawa, P.O. - Bodh Gaya, P.S. - Bodh Gaya, District- Gaya, Pin - 824231.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Satyabir Bharti, Advocate Mr. Kanupriya, Advocate Mr. Abhishek Anand, Advocate
For the State	:	Mr. Government Advocate 10

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 15-04-2024

A counter affidavit has been filed on behalf of respondents-1st set and a copy of the same has been supplied to the learned counsel for the petitioners.

02. Heard learned counsel for the petitioners and learned counsel for the State-respondents.

03. The instant Civil Misc. Petition has been filed by the petitioner seeking following relief(s):-

“(i) Directing the Court of Sub-Judge 1st, Gaya to hear and pass appropriate order(s) on the application preferred by the plaintiffs-petitioners herein under Order XXXIX Rule 1 & 2 in Title Suit No. 807 of 2023, for directing the defendants to maintain Status Quo, with respect to the suit property and pass appropriate order of ad interim injunction restraining the defendants from interfering in peaceful possession of the plaintiffs over the suit property fully detailed in Schedule 1 of the



plaint till disposal of the suit;

(ii) Directing the respondents to maintain status quo with respect to the suit property till disposal of the application preferred by the petitioner under Order XXXIX Rule 1 & 2, in Title Suit No 807 of 2023, which is pending in the Court of Sub-Judge 1st, Gaya.

(ii) To pass such other order(s), direction(s) as your Lordships may deem fit and proper in the facts and circumstances of the case.”

04. On the last date of hearing, i.e., on 01.02.2024, the learned Sub Judge-I, Gaya was directed to dispose of the injunction petition preferred by the plaintiffs/petitioners under Order XXXIV Rule 1 & 2 of the Code of Civil Procedure, 1908 (hereinafter referred to as ‘the Code’) in Title Suit No. 807 of 2023 within two months from the date of receipt/production of a copy of the said order.

05. Learned counsel for the petitioners submits that the injunction application has not been disposed of and the respondent 1st set have sought adjournments for filing show-cause and written statement. Since other defendants/respondents have not appeared despite service of notice through usual channel, the learned trial court has directed the



plaintiffs/petitioners to take recourse of substituted service through publication for service of notice upon other defendants/respondents. Learned counsel further submits that the present petition may be disposed of with direction to the learned trial court to hear and pass order(s) on the application preferred by the plaintiffs/petitioners under Order XXXIX Rule 1 & 2 of the Code in Title Suit No. 807 of 2023 within stipulated time period and till the disposal of the injunction application, the parties should be directed to maintain *status quo* with regard to the suit property.

06. Learned counsel appearing on behalf of respondents 1st set vehemently opposes the submission made on behalf of petitioners. Learned counsel further submits that no notice under Section 80 of the Code has been served upon the respondents 1st set. Learned counsel further submits that *khatiyani* entry of the suit property has not been rebutted till date though it has been recorded as '*Anabad Bihar Sarkar*'. Learned counsel further submits that under Article 227 of the Constitution of India, this Court cannot grant any injunction though certain directions could be issued to the learned trial court for disposal of the petition/case pending before it.

07. The petitioners have approached this Court only



with a prayer to issue a direction to the learned trial court for disposal of the application of the plaintiffs/petitioners filed for injunction under Order XXXIX Rule 1 and 2 of the Code and already this Court has passed an order, directing the learned trial court to dispose of the injunction petition within two months, yet the learned trial court has not been able to pass the order(s) of disposing of the injunction petition. Since, the only prayer of the petitioners is with regard to disposal of the injunction petition pending before the learned Sub Judge-I, Gaya, within a stipulated time period, I think no useful purpose would be served in issuing notice to other respondents.

08. Hence, the learned trial court is directed to take further steps for early disposal of the injunction petition and try to dispose of the same within three months from the date of receipt/production of a copy of this order. In the interest of justice, till the final orders are passed on the injunction application, the petitioners and respondents 1st set are directed to maintain *status quo* with regard to the suit property till disposal of the injunction petition. The parties are directed to co-operate with the proceeding before the learned trial court.

09. However, it is made clear that this Court has not expressed anything on merits of the injunction petition before



the learned trial court. The earlier orders of this Court were only to the effect that the learned trial court would try to dispose of the injunction petition within certain stipulated period. Only the same order is again reiterated.

10. Accordingly, the present petition stands disposed of with the aforesaid observation.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.04.2024
Transmission Date	

