

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1594 of 2018

Nirbhay Pandey, Son of Gyan Chandra Pandey, Resident of Mauza-Chand,
Police Station-Chand, District-Kaimur Bhabhua

... .. Petitioner/s

Versus

1. Radhika Devi, Wife of Sri Chakrabarty Pandey, Daughter of Late Sharad Chandra Pandey, Resident of Mauza-Shiv, Police Station-Chand, District-Kaimur Bhabhua
2. Usha Pandey, Wife of Sri Rajendra Kumar Pandey, Daughter of Late Sharad Chandra Pandey Resident of Mauza-Vishwanath Puri Colony, Police Station-Shivpur, District-Varanashi, at present resident of Mauza and Police Station-Chand, District-Kaimur
- 3.1. Din Dayal Upadhyay son of Late Rama Shankar Upadhyay, Resident of Village-Padhi, P.S.-Chand, District-Kaimur.
- 3.2. Devi Upadhyay, son of Late Rama Shankar Upadhyay, Resident of Village-Padhi, P.S.-Chand, District-Kaimur.
4. Dharamsheela Devi, Wife of Sri Murlidhar Pandey, daughter of Late Sharad Chandra Pandey Resident of Mauza-Aurgai, Police Station-Bhabhua, District-Kaimur
5. Sunita Devi, Wife of Sri Punnu Tiwari, daughter of Late Sharad Chandra Pandey Resident of Mauza-Kanta, Police Station-Sayedraja, District-Chandauli
6. Nageshwari Devi, Wife of Sri Deo Nath Singh
7. Ajay Kumar Son of Sri Deonath Singh
8. Arun Kumar Son of Sri Deonath Singh
- 9.1. Sunil Pandey, son of Gyanchandra Pandey, Resident of Village-Chand, P.S.-Chand, District-Kaimur.
10. Asha Devi Wife of Sri Ashok Kumar
11. Vijay Shankar Pandey Son of Ramakant Pandey All are resident of Mauza-Chand, Police Station-Chand, District-Kaimur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sourendra Pandey, Advocate
For the Respondent/s	:	Mr.Radha Mohan Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 19-06-2024



Today, the matter has been listed under the heading 'For Orders (On Petition)' for hearing on I.A.No.02 of 2024, which has been filed by the petitioner for amendment of prayer in paragraph 1 of the instant civil miscellaneous petition.

2. By filing the instant interlocutory application, the petitioner seeks to add the following relief in paragraph 1 of the instant civil miscellaneous petition :

“For a direction that both the suits i.e. T.S.No.138 of 2002 pending before Learned Sub-Judge-Vth, Kaimur at Bhabhua and T.S.No.140 of 2021 pending before Learned Sub-Judge-VIth, Kaimur at Bhabhua be either amalgamated or tried together by the one and the same court side by side”.

3. However, the matter is taken up for its disposal with the consent of the parties.

4. The learned counsel for the petitioner submits that the Title Suit No.138 of 2002 has been filed for partition, whereas the Title Suit No.140 of 2011 has been filed for partition as well as for declaration of two sale deeds to be null and void. Hence, in the interest of justice, it would be proper that both the suits are amalgamated and tried together by one and the same court side by side since both the suits are running at the different courts.



5. The learned counsel appearing on behalf of the respondent no.1 submits that although there could be no objection to the amalgamation of two suits, but Title Suit No. 140 of 2011 is fixed for final argument, whereas in Title Suit No.138 of 2002, the stay has been operating and is at the stage of evidence of defendants and no witnesses have been produced by the defendants. Hence, amalgamation in such situation could not be proper.

6. I find some merit in the submission of learned counsel for the respondent no.1.

7. However, it would be proper in the interest of justice that both the suits are tried by the same court side by side without amalgamation and if the proceeding of Title Suit No.140 of 2011 is at the stage of final argument, it would be just and proper that the same be expeditiously disposed of by the learned trial court and at the same time, Title Suit No.138 of 2002, which is pending at the stage of evidence of defendants, is also taken up on urgent basis and disposed of at the earliest.

8. Therefore, the learned District Judge, Kaimur at Bhabua is directed to transfer the Title Suit No.138 of 2002 to the court where the Title Suit No.140 of 2011 is pending at the stage of final argument. Thereafter, the concerned court will take up the



matter in Title Suit No.140 of 2011 and try to dispose of the same preferably within a month from the date of receipt/production of a copy of this order. Further, the court concerned shall also take up the matter in Title Suit No.138 of 2002, which is pending at the stage of evidence of defendants, and also try to dispose of the same preferably within a period of three months.

9. With the aforesaid observations/directions, the instant petition stands disposed of.

10. Pending application (s), if any, stand (s) disposed of.

V.K.Pandey/-

(Arun Kumar Jha, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.06.2024
Transmission Date	NA

