

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.305 of 2023

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Kumari Asha Devi @ Asha Singh wife of Shri D. P. N. Singh, Resident of Village- Krishna Bag, Nagwa, N- 69 Lanka, P.S.- Lanka, District- Varanasi (UP).

... .. Petitioner/s

Versus

1. Vikash Kumar Son of Late Kaushal Kumar Singh, Resident of Village- Sandanandpur, P.S.- Ballia, District- Begusarai.
- 2.1. Nitilaksh Vatsyayan S/o Shiv Avinash Sharma, Village and P.O.-Riga, District-Samastipur.
- 2.2. Sri Avinash Kumar Sharma s/o - Shri Basudev Prasad Sharma and husband of Late Kumari Rita Devi, R/o - Village and Post - Riga, District- Sitamarhi.
- 2.3. Aprajita @ Kangana D/o - Late Kumari Rita Devi and W/o - Navin Kumar, R/o - Village and Post - Shebai Patti, P.s. - Badpatti, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vikas Kumar, Advocate
For the Respondent/s	:	Mr. Indu Bhushan, Advocate
		Mrs. Swati Parmar, Advocate
For the Respondent No.2:		Mr. Bal Bhushan Chaudhary, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

10 13-11-2024 Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. The petitioner is aggrieved by the order dated 04.08.2022 passed by learned Additional Sessions Judge IVth Begusarai in Misc. Appeal No. 3 of 2020 whereby and whereunder the learned appellate court restrained the parties not to do any act/action/performance pertaining to the land in question/disputed land without prior leave of the High Court considering the pendency of CWJC No. 9824 of 2022.



3. Learned counsel for the petitioner submits that the CWJC No. 9824 of 2022 has been dismissed as withdrawn and there is no occasion for getting leave from this Court. Moreover, the matter in issue has no concern with the subject matter of CWJC No. 9824 of 2022.

4. Learned counsel appearing on behalf of the respondents submits that the respondents have also challenged the order dated 04.08.2022 passed in Misc. Appeal No. 3 of 2020 by filing Civil Misc. No. 1116 of 2023 and vide order dated 15.04.2024, it has been held by this Court that the petition was not maintainable as Misc. Appeal No. 3 of 2020 was still pending and the same situation still exists.

5. Since the petitioner has challenged an interlocutory order dated 04.08.2022 passed in Misc. Appeal No. 3 of 2020 and final orders are yet to be passed by the appellate court, the petitioner has every opportunity to raise all his contention before the learned appellate court and the learned appellate court would consider the submission of the petitioner and pass the final orders. Since the Misc. Appeal No. 3 of 2020 is still pending, the petitioner has approached this Court in pre-mature manner and should have waited to the disposal of Misc. Appeal No. 3 of 2020. Hence, the learned appellate court is directed to



dispose of the Misc. Appeal No. 3 of 2020 within a period of one month from the date of receipt/production of a copy of this order after giving due opportunity of hearing to the petitioner as well as to the other side. Petitioner is at liberty to raise all issues before the learned appellate court.

6. With the aforesaid observation/direction, the present petition is disposed of.

(Arun Kumar Jha, J)

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