

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.265 of 2023

Md. Parwej Alam @ Parwej Alam Son of Late Ramjan Ansari Resident of Village- Punaura, Tola- Bhorha, Ward No.- 03, P.S.- Punaura, District- Sitamarhi.

... .. Petitioner/s

Versus

1. Md. Aftab Alam Son of Late Ramjan Ansari Resident of Village- Punaura, Tola- Bhorha, Ward No.- 03, P.S.- Punaura, District- Sitamarhi.
2. Md. Sayad Alam, Son of Late Ramjan Ansari Resident of Village- Punaura, Tola- Bhorha, Ward No.- 03, P.S.- Punaura, District- Sitamarhi.
3. Jahida Khatoon, Wife of Md. Hasim Ansari Resident of Village- Chainpur Dhaka, P.S.- Chainpur, District- East Champaran (Motihari).
4. Vikash Kumar, Son of Nagina Prasad Resident of Village- Gudari Road, Sitamarhi, Ward No.-17, P.S. and District- Sitamarhi.
5. Dharendra Nath Trivedi, Son of Raghwendr Nath Trivedi Resident of Village- Mela Road, Bhavdepur, Ward No.- 20, P.S. and District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bimal Kumar Jha, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 12-08-2024 The matter has been listed on mentioning being made on behalf of the petitioner.

2. Mr. Bimal Kumar Jha, learned counsel appearing on behalf of the petitioner submits that the regular counsel is not available.

3. This matter has been listed on 05.08.2024 under the heading “To Be Mentioned” but at the request of learned counsel for the petitioner a pass over was given.

4. Today, learned counsel appearing on behalf of the



petitioner submits that he is having no instruction either from the petitioner or from the regular counsel.

5. Perused the records. From perusal it appears that the instant petition has been filed for quashing the order dated 19.05.2022 passed in Partition Suit No. 347 of 2021 by learned Sub-Judge – I, Sitamarhi, whereby and whereunder the learned trial court has rejected the injunction petition filed by the plaintiffs for restraining respondent nos. 4 and 5 from doing construction activities on the suit land. The impugned order is appealable under Order 43 Rule 1(r) of the Code of Civil Procedure and hence, the present petition is not maintainable.

6. In the light of facts and circumstances, the present petition is dismissed as not maintainable.

7. At this stage, learned counsel appearing on behalf of the petitioner submits that the liberty may be given to the petitioner for filing a Misc. Appeal.

8. It goes without saying that the said liberty is always available to the petitioner.

(Arun Kumar Jha, J)

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