

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.388 of 2023

Ramjee Singh @ Ramji Singh, Son of Late Bihari Singh, Resident at Village-
Atimi, Police Station- Nawanagaar, District- Buxar.

... .. Petitioner/s

Versus

1. Shivmuni Singh, Son of Late Bihari Singh Resident of Village- Atimi, Police Station- Nawanagar, District- Buxar.
2. Mohan Singh, Son of Late Nagina Singh Resident of Village- Atimi, Police Station- Nawanagar, District- Buxar.
3. Harendra Singh, Son of Late Nagina Singh Resident of Village- Atimi, Police Station- Nawanagar, District- Buxar.
4. Sumeshwar Singh, Son of Late Nagina Singh Resident of Village- Atimi, Police Station- Nawanagar, District- Buxar.
5. Rajeshwar Singh, Son of Late Nagina Singh Resident of Village- Atimi, Police Station- Nawanagar, District- Buxar.
6. Suresh Singh, Son of Late Binda Singh Resident of Village- Koran Sarai, Police Station- Koran Sarai, District- Buxar.
7. Santosh Singh, Son of Late Binda Singh Resident of Village- Koran Sarai, Police Station- Koran Sarai, District- Buxar.
8. Subedar Singh, Son of Late Goldar Singh Resident of Village- Koran Sarai, Police Station- Koran Sarai, District- Buxar.
9. Ganga Sagar Singh, Son of Late Older Singh Resident of Village- Koran Sarai, Police Station- Koran Sarai, District- Buxar.
10. Jiyachhi Devi, Wife of Shekhar Singh Resident of Village- Atimi, Police Station- Nawanagar, District- Buxar.
11. Damanti Devi, Wife of Shyam Bihari Singh Resident at Village- Nazirganj, Police Station- Koran Sarai, District- Buxar.
12. Motishwani Devi @ Motia Devi, Wife of Gorakh Singh Resident of Village- Belwaiya, Police Station- Dinara, District- Rohtas.
13. Deorati Devi, Wife of Baban Singh Resident of Village- Tenuath, Police Station- Dinara, District- Rohtas.
14. Jamuna Singh, Son of not known Resident of Village- Delluha, Police Station- Dinara, District- Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Dhanendra Chaubey, Advocate
For the Respondent/s	:	Mr. S.S. Dvivedi, Sr. Advocate
		Mr. Parth Gaurav, Advocate
		Mr. Kunal Aryan, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT



Date : 08-04-2024

Heard learned counsels for the respective parties.

2. The present petition has been filed against the order dated 09.02.2023 passed by the learned Sub Judge-1st, Dumraon in Title Suit No. 360 of 2018 whereby and whereunder the application dated 21.09.2022 filed by the defendant/petitioner under Order 39, Rule 1 read with Section 151 of the Code of Civil Procedure (hereinafter referred to as 'the Act') has been rejected.

3. The learned counsel for the petitioner submits that in fact nomenclature was wrong and it was a petition under Section 151 of the Code only.

4. However, from paragraph 5 of the application before the learned trial court, I find that the petitioner has submitted that *prima facie* case was in favour of the defendant with balance of convenience and if the order for injunction is not passed in favour of the defendant, he will suffer irreparable loss and, thereafter, the relief has been claimed that the plaintiffs be restrained from interfering with the property, which the defendant got in family partition, till the disposal of the suit.

5. I do not think there is any infirmity in the relief and nomenclature of the application filed before the learned trial



court as in plain and simple words, it is an application for injunction for which the Code provides for procedure under Order 39 Rule 1 and 2 and an order passed on such application is an appealable order under Order 43 Rule (1) (r) of the Code.

6. Apparently, the petitioner has chosen a wrong forum to agitate the matter and, hence, the present petition is not maintainable and, accordingly, it is dismissed.

7. However, the petitioner is at liberty to take recourse of law as may be available to him.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.04.2024
Transmission Date	NA

