

**IN THE HIGH COURT OF JUDICATURE AT
PATNA
Civil Writ Jurisdiction Case No.12849 of 2023**

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1. Satyanarayan Prasad Saha Son of Late Bishnu Prasad Saha, Resident of Ward No. 12, Tegharia (Kanu Mani), District- Kishanganj.
 2. Gita Rani Saha Wife of Satyanarayan Prasad Saha, Resident of Ward No. 12, Tegharia (Kanu Mani), District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate cum Collector, Kishanganj.
2. The District Magistrate cum Collector, Kishanganj.
3. The Sub-Divisional Officer, Kishanganj.
4. Dr. Kumar Shailendra Son of Satyanarayan Prasad Saha, at present residing at Shanti Vihar, Near Dr. Anuj Kumar Clinic, Purab Pali Road, P.O. and P.S.- Kishanganj, District- Kishanganj.
5. Smt. Monalisa Wife of Dr. Kumar Shailendra, at present residing at Shanti Vihar, Near Dr. Anuj Kumar Clinic, Purab Pali Road, P.O. and P.S.- Kishanganj, District- Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Satish Kumar Sinha, Advocate
For the Respondent/s : Mr.Prasant Pratap (Gp 2)

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

3 24-09-2024 1. The present writ petition has been filed assailing the order dated 21.12.2021, passed by the learned Court of District Magistrate-cum-Collector, Kishanganj in Appeal Case No.41 of 2021, paragraph no.8, thereof being relevant, is being reproduced hereinbelow:-

“8. It appears that the appellants are aggrieved by the finding given by the Presiding Officer in regards to 7 katha land, it is respectfully submitted that such finding was given in view



of clear cut admission before a Judicial Officer, which was taken note in presence of officers concerned, more so, even the petitioner/appellants no. I is also a legal officer is well aware that admissions given before a judicial officer are judicial admissions and they have evidentiary value and the same cannot be brushed away by filling such grounds in appeal, in fact, it tantamount to playing fraud upon courts as has been held by Hon'ble Supreme Court and our Parent Court in catena of Judgments and thus yet it is another reason to discard the present ground for consideration.

Even this is settled in catena of judgments via Hon'ble Supreme Court and our Parent Court that the application is not maintainable against the present respondents no 2 and the same cannot be invoked to defeat the right of residence of a woman in a shared household. However, respondents no 2 never invoked provision of Domestic Violence Act, as she has always kept up the good name of the family and she understand filing up cases against in law would only tarnish the image of her father-in-law, it was only on the unfortunate day when things ran out of control the respondents no 2 was compelled to file a complaint against brother-in-law vide P.S. Case no. 179/2021 and these proceeding are



just a counter blast to those proceeding. But certainly, filing of such appeals cannot nip the voice of present respondent.”

2. The learned counsel for the petitioners submits that the complaint of the petitioners can be found at page no.25 of the present writ petition (Annexure-3), which would show that the petitioners have nowhere mentioned that they have built their house over 7 Kathas of land, purchased with the help of their ancestors, hence the findings recorded by the Sub-Divisional Magistrate, Kishanganj in his order dated 17.07.2021, passed in Case No.03 (mother and father) of 2021, as upheld by the District Magistrate, Kishanganj in his order dated 21.12.2021, is perverse and requires reconsideration, hence the learned District Magistrate, Kishanganj be directed to reconsider this aspect of the matter and after hearing the parties, decide as to whether in absence of any specific pleadings made in the complaint filed before the Sub-Divisional Officer, Kishanganj, the admission of the petitioners to the aforesaid extent could have been recorded by him in his order dated 17.07.2021, especially, in view of the admitted fact that neither the petitioners had deposed before the learned Court of Sub-Divisional Officer, Kishanganj on oath, nor the Sub-Divisional Officer, Kishanganj had recorded any statement of the



petitioners.

3. Having regard to the facts and circumstances of the case, I deem it fit and proper to grant liberty to the petitioners to file appropriate petition, before the Collector-cum-District Magistrate, Kishanganj in the aforesaid Appeal Case No.41 of 2021, for the purposes of clarifying the factual aspect of the matter, to be aforesaid extent, within a period of four weeks from today, which shall be considered by the Collector-cum-District Magistrate, Kishanganj, in accordance with law and after hearing the affected parties, appropriate orders shall be passed thereon, within a period of eight weeks, thereafter.

4. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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