

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.801 of 2024**

Jaylal Singh Son of Late Ram Pratap Singh Resident of Village Bari Bathna,
P.S.- Mansahi, District- Katihar.

... .. Petitioner/s

Versus

1. Upendra Kumar Suman Son of Mahabir Singh Resident of Village- Bari
Batlina, P.S. Mansahi, District- Katihar.
2. Naresh Singh Son of Late Ram Pratap Singh Resident of Village- Barua
Tola, P.S.- Dandkhora Sauria, District- Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Prabhat Prasoon, Advocate
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 03-12-2024

The record has been taken up on mentioning being
made on behalf of the petitioner.

2. Heard learned counsel for the petitioner and I
intend to dispose of the matter at the stage of admission stage.

3.The petitioner is aggrieved by the order dated
05.02.2024 passed by learned Sub Judge- 1st, Katihar in Title
Suit No. 202 of 2016.

4. Learned counsel for the petitioner submits that
the petitioner has raised the issue of maintainability of Title Suit
No. 202 of 2016 since title suit was filed on the basis of sale
deed purportedly executed by one Masiruddin on 28.01.1959
but said Masiruddin was minor at that time and was aged about
10 years 2 months. Other issues were further raised about the
title and possession of the vendor. However, the learned trial



court did not consider this aspect and dismissed the application filed on behalf of the petitioner. Learned counsel further submits that in 2008 Masiruddin executed two sale deeds claiming his age to be 60 years years and on this ground Masiruddin was minor when the sale deed was executed. So there is no basis for institution of the title suit and the suit should have been dismissed.

5. Having regard to the facts and circumstances and submission made on behalf of the petitioner, I do not find any merit in the submission since the petitioner has raised certain issues about factual matrix of the matter. If the facts are disputed, the same should be decided only after proper trial and giving due opportunity of hearing to the parties. Disputed facts cannot be raised as preliminary issue. Hence, I do not find any infirmity in the impugned order and the same is hereby affirmed.

6. Accordingly, the present petition stands dismissed at the stage of admission itself.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.12.2024
Transmission Date	NA

