

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.877 of 2023

Vijay Kumar Verma, S/o Late Ramjee Prasad, R/o Village+ P.O.- Paroha, P.S.-
Manpur, District- Nalanda Pin- 803107.

... .. Petitioner/s

Versus

1. Ramjivan Rai, S/o Late Chhatar Rai, Resident of Village Ilahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
2. Brij Nandan Rai, S/o Late Chhatar Rai, Resident of Village Ilahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
3. Rama Nand Rai, S/o Ram Jivan Rai, Resident of Village Ilahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
4. Ram Sawarath Rai, S/o Ram Jivan Rai, Resident of Village Ilahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
5. Ram Sewak Rai, S/o Ram Jivan Rai, Resident of Village Ilahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
6. Jogindra Rai, S/o Late Hazari Rai, Resident of Village Ilahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
7. Baij Nath Rai, S/o Late Jangi Rai, Resident of Village Ilahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
8. Hari Nath Rai, S/o Late Jangi Rai, Resident of Village Ilahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
9. Kedar Rai, S/o Late Jangi Rai, Resident of Village Ilahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
10. Jai Rai, S/o Late Jangi Rai, Resident of Village Ilahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
11. Ramji Rai, S/o Late Chotoo Rai, Resident of Village Ilahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
12. Ganesh Rai, S/o Late Ram Dev Rai @ Dev Rai, Resident of Village Ilahi Bagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
13. Raju Kumar, S/o Late Brij Nandan Rai, Resident of Village Ilahi Bagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
14. Sujan Kumar, S/o Late Brij Nandan Rai, Resident of Village Ilahi Bagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
15. Suraj Kumar, S/o Late Brij Nandan Rai, Resident of Village Ilahi Bagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
16. Rina Devi, D/o Late Brij Nandan Rai, Resident of Village Ilahi Bagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
17. Pinku Devi, D/o Late Brij Nandan Rai, Resident of Village Ilahi Bagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
18. Rinku Devi, D/o Late Brij Nandan Rai, Resident of Village Ilahi Bagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
19. Sinku Devi, D/o Late Brij Nandan Rai, Resident of Village Ilahi Bagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.



20. Priyanka Kumar, D/o Late Brij Nandan Rai, Resident of Village Ilahi Bagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
21. Nandan Rai, S/o Late Ram Bali Rai, Resident of Village Ilahi Bagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
22. Shiv Bachan Rai, Son of Late Nokhe Lal Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
23. Deo Bachan Rai, Son of Late Nokhe Lal Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
24. Umesh Rai, S/o Late Tilak Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
25. Malik Rai @ Jitendra Rai, S/o Late Chandra deep Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
26. Hridaya Rai, S/o Late Banwari Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
27. Raj Ballabh Rai, S/o Haridaya Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
28. Kamleshwar Rai, S/o Hridaya Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
29. Shiv Pujan Rai, S/o Kameshwar Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
30. Kalaktor Rai, Son of Kameshwar Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
31. Dilip Rai, Son of Late Sita Ram Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
32. Upendra Rai, Son of Late Sita Ram Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
33. Jitendra Rai, Son of Late Sita Ram Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.
34. Ravi Rai, Son of Late Sita Ram Rai, Resident of Village Illahibagh Akaltola, P.O Bario, P.S. Gopalpur, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vaidehi Raman Pd. Singh, Advocate Mr.Manendra Kumar Sinha, Advocate Mr. Navneet Kumar, Advocate
For the Respondents 1 to 11	:	Mr.Jitendra Kumar Roy 1

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 22-03-2024

Heard learned counsels for the respective parties on
the point of admission and I intend to dispose of the instant



petition at the stage of admission itself.

2. The instant petition has been filed by the petitioner under Article 227 of the Constitution of India seeking following reliefs :

“(i) For issuance of appropriate writ and for quashing of the order dated 20.02.2023 (Modification dated 15.04.2023) passed by the learned sub Judge-V Patna, in Title Suit no.199/2011 where by the learned Court has rejected the petition dated 12.08.2022 and continuation petition dated 16.09.2022 filed by the defendants no. 3 to 311 and further hold that plot no.s 208 and 209 of Khata No. 706 and Touzi No. 36 of Mauza Manpur Baria is not the subject matter of suit.

(ii) For issuance of appropriate writ and for quashing of the said order dated 20.02.2023 (modified 15.04.2023) by which the learned court has himself ignored the earlier order dated 11.04.2012 same court which was passed in order to maintain status quo over the disputed land till the disposal of the suit.

(iii) For issuance of appropriate writ and direction to the court below to pass the order a fresh in the matter concern and for the ends of Justice Status quo over whole suit properties described under different schedules of the plaint in T.S. No. 199/2011 may remain continue as per earlier order of the court dated 11.4.2012 till the disposal of suit.



(iv) for issuance of writ to any other relief/ reliefs for which the petitioners is entitled under the law and facts”.

3. The learned counsel for the petitioner submits that the petitioner is aggrieved by the order dated 20.02.2023 passed by the learned Sub Judge-V, Patna in Title Suit No.199/2011 whereby and whereunder the application dated 12.08.2022 filed on behalf of defendant nos. 3 to 3 (H) raising a question whether Plot Nos. 208 and 209 mentioned in Schedules other than Schedule V and V-A of the plaint could be treated as suit property, has been rejected. The learned counsel further submits that during the pendency of title suit, the plaintiffs filed a petition on 04.04.2011 under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure for restraining the defendants from disturbing the peaceful possession of the plaintiffs. After hearing the parties, the learned trial court passed the order directing both the parties to maintain *status quo* till the disposal of the suit. The learned counsel further submits that it was not mentioned by the learned trial court that whether the *status quo* order shall be effected in respect to which of the properties of suit or only in respect of the properties mentioned in Schedule V and VA of the plaint. The learned counsel further submits that from paragraphs 3, 12 and 13 of the plaint, it



appears that the claim of the plaintiffs is based on sale deeds dated 24.10.1940 and 23.12.1940 with regard to a number of properties including Plot Nos.208 and 209 as described in Schedule III collectively. But the claim of the plaintiffs was denied by the defendants. However, after the *status quo* order was passed by the learned trial court, the plaintiffs approached the Collector, Patna and managed to get an opinion from the Government Pleader as to whether Plot Nos. 208 and 209 are the suit properties or not. The Government Pleader opined that the *status quo* was only with regard to Schedule V and VA properties and Plot Nos. 208 and 209 are not mentioned in the aforesaid Schedule. The effect of the said opinion was that the construction work on Plot Nos. 208 and 209 stayed earlier was again started. The learned counsel further submits that the Collector has no business to give such an opinion when the matter was already *sub-judice* before the learned trial court. If any clarification was to be given, it was for the learned trial court to pass any order and not by the Collector, Patna. The learned counsel again reiterated that since the properties have been mentioned in paragraphs 3, 12 and 13 of the plaint which includes Plot Nos. 208 and 209, in absence of any specific order not to include Plot Nos. 208 and 209 on which the *status quo* was to operate, it cannot be presumed that *status quo* order was



only with regard to Schedule V and V-A of the properties.

4. The learned counsel appearing on behalf of the respondents vehemently opposes the contention made on behalf of the petitioner. The learned counsel submits that there can be no ambiguity with regard to the property on which maintenance of *status quo* was ordered. The relief sought by the plaintiffs is only with regard to the suit property for which they were making their claim. The *status quo*, which was ordered, was challenged by the defendants before this Court in M.A. No.288 of 2012. The learned counsel further submits that since Schedule III to III-D is not the subject matter of the claim of the plaintiffs and no relief has been sought with regard to the properties mentioned in Schedule III to III-D, it is very much obvious that the status quo order would operate only on the properties against which the plaintiffs have been making claim and not on the other properties which is not the subject matter of litigation or on which no relief has been sought by the plaintiffs.

5. Having regard to the rival submission of the parties and on further perusal of record, I do not find much merit in the submission of the learned counsel for the petitioner and for this reason in the present civil miscellaneous petition.

The plaintiffs have sought the following reliefs in their plaint filed in Title Suit No.199/2011 :



“a) That on consideration of the facts noted in the body of the plaints your honour may be pleased to declare the title of the plaintiffs 1st set in schedule V property and plaintiff 2nd set in schedule-VA properties and non title of the defendant over the suit land given in schedule V and VA.

B) That it may also be declared that the power of attorney dtd. 3.11.10 and 10.12.10 executed by defendant no. 2 to 4 in favour of defendant no.1 is illegal, forged, in operative document and has not binding affect against the plaintiffs and it cannot creat any right title to the defendant no. 2 to 4.

C) That the cost of the suit may also be awared in favour of the plaintiffs and ought the defendants.

D) That any other relief or reliefs with you here may just and proper may also be justed in favour of the plaintiffs”.

Now Schedule V and V-A are with regard to the properties of Plot Nos. 447, 448 only whereas Plot Nos.208 & 209 are part of Schedule III, III-A, III-B, III-C and III-D for which neither any relief has been sought nor any claim has been made by the plaintiffs. At the same time, it is not the case of the defendant/petitioner that he has made any counter claim.

So far as submission of learned counsel for the petitioner about mentioning of these properties in paragraphs 3, 12 and 13 is concerned, the same is towards assertion of the claim of the plaintiffs over the properties mentioned in Schedule V and V-A of the plaint and the plaintiffs have not sought any



relief on these properties of Plot Nos. 208 and 209 against the defendants. It is an admitted fact that apart from Schedule V and V-A, the relief has not been sought against other properties.

Furthermore, the defendants while challenging the *status quo* order before this Court did not seek any clarification with regard to the suit property. Further, the learned trial court is the best Judge when it comes to clarification regarding its order and what was intended by suit property or the properties over which the *status quo* order would operate. If the learned trial court clarified this position, this Court would not like to enter further into the matter since this Court is in agreement with the reasoning adopted by the learned trial court.

7. In view of the aforesaid discussion, I do not find that the impugned order suffers from any infirmity as the same has been passed after consideration of all the aspects of the matter and, therefore, the same is affirmed.

8. Hence, I do not find any merit in the instant petition and, accordingly, the same is dismissed.

9. At this stage, learned counsel for the petitioner submits that the learned trial court may be directed to dispose of the suit pending before it within certain stipulated time limit and he undertakes to produce all his witnesses before the learned trial court within next two months.



10. The contention of the learned counsel for the petitioner is deplorable for the simple reason that it is due to the attitude of the defendants, the matter is getting delayed since the evidence of the plaintiffs have been closed on 25.08.2018 and, thereafter, the matter has been pending for the evidence of the defendants. So if any delay has been caused, the blame must be shared by the defendants.

11. However, learned trial court is directed to expedite the trial and conclude the same within next six months from the date of receipt/production of a copy of this judgment in the light of undertaking of the learned counsel for the petitioner about production of witnesses within two months.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	22.03.2024
Transmission Date	N.A

