

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1005 of 2018

Lala Shashi Bhushan Singh @ Mantun, Son of Late Aghori Singh @ Kaushal Kishore Prasad Singh Resident of Village Police Station - Nawkothe, District - Begusarai.

... .. Petitioner

Versus

1. Suchit Kumar Singh, Son of Late Chandra Mouli Singh
2. Amit Kumar
3. Sumit Kumar 2 and 3 are sons of Suchit Kumar Singh All 1 to 3 are residents of Village Police Station - Nawkothe, District - Begusarai. At present residing at Mohalla - Sarvodaynagar Kalpana Computer, Mukhtar Khana 1st Floor Kachahari Compound, Begusarai Police Station - Begusarai Town, District - Begusarai.
4. Pawn Devi wife of Late Chandramauli Singh
5. Neelam Kumari Daughter of Late Chandramauli Singh
6. Babu Kumari Daughter of Late Chandramauli Singh 4 to 6 are residents of Village Police Station - Nawkothe, District - Begusarai, At present residing at Mohalla - Sarvoday Nagar, Police Station - Begusarai Town, District - Begusarai.
7. Srimati Saraswati Devi Wife of Braj Kishore Prasad Singh, Daughter of Late Bhagwan Prasad Singh resident of Village Post Office - Manjhaul, Police Station - Cheriabariyarpur, District - Begusarai.
8. Kiran Kumari Wife of Jitendra Kumar Choudhary, Daughter of Late Aghori Singh @ Kaushal Kishore Prasad Singh Resident of Village - Badhaun, Police Station - Vidyapatinagar, District - Samastipur, At present resident of Mohalla Vihar Colony, Kashipur, ward No. 17, Samastipur Municipal Area, Police Station District - Samastipur.
9. Ram Rekha Singh Son of Late Jhari Singh
10. Mina Devi wife of Ram Rekha Singh Both 9 and 10 are residents of Village and Post Office - Pahsara, Police Station Nawkothe, District - Begusarai.
11. Radha Devi wife of Shivji Poddar
12. Devu Singh Son of Jhari Singh Resident of Village and Post Office - Pahsara, Police Station Nawkothe, District - Begusarai.
13. Bhola Sah son of Parmeshwar Sah
14. Duryaodhan Sah Son of Mangal Sah
15. Srimati Bimala Devi wife of Sri Kant Sah Sonar All 11 to 15 are residents of Village Post Office Police Station - Nawkothe, District - Begusarai.
16. Ramashish Singh Son of Late Lakshmi Singh Resident of Maranchi, Pratappur Tola, Police Station - Maranchi, District - Patna.
17. Sita Ram Tatma
18. Ram Das Tatwa Both are sons of Late Liro Tatwa
19. Sheo Chandra Prasad Singh son of Deodhar Prasad Singh All 18 to 20 are



residents of Village Post Office - Pahsara, Police Station - Nawkothi, District - Begusarai.

20. Shambhu Singh son of Jagdip Singh
21. Ram Baran Singh Son of Kuldeep Singh
22. Ram Mahto son of Sitaram Mahto All 21 to 23 are residents of Village - Chakka, Post Office - Nawkothi, Police Station, District - Begusarai.
23. Yugal Singh son of Kamo Singh
24. Ram Pukar Yadav son of Ram Balihari Yadav
25. Fulena Poddar son of Karpurdeo Poddar
26. Hardeo Singh son of Late Ram Badan Singh @ Balo Singh
27. Nunu Lal Singh son of Yogendra Singh
28. Ratan Sahni son of Sigheshwar Sahni 23 to 28 are resident of village PO PS Nawkothi, District Begusarai.
29. Ram Nandan Singh Dafadar
30. Ram Nandan Mahto son of Ratan Mahto Both 29 and 30 are residents of Village - Chhataura, PO PS - Nawkothi, District Begusarai.
31. Ram Raj Prasad Singh son of Late Gorelal Singh
32. Smt. Ranju Devi wife of Ram Raj Prasad Singh Both 31 and 32 are residents of Village PO PS - Nawkothi, District Begusarai.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Ravi Shanker Pankaj, Advocate
For the Res. Nos.1 to 3 : Mr. Ravindra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 05-04-2024

Heard learned counsel for the petitioner and learned counsel for the respondent nos. 1 to 3 (respondents 1st set) on the point of admission and I intend to dispose of this petition at the stage of admission itself.

02. The instant petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 15.05.2018 passed by the learned Sub-Judge, Bakhari, Begusarai in Title Partition Suit No. 43 of 1997 whereby the learned trial



court debarred the petitioner from adducing evidence after closing the evidence of the defendant-1st set (petitioner).

02. Learned counsel for the petitioner submits that the respondents -1st set filed a title partition suit in which the petitioner is defendant no. 2 and defendant no. 1 was his father (defendants 1st set) and other defendants who are also respondent nos. 4 to 32. During recording of evidence, after closure of evidence plaintiffs on 12.03.2018, on 25.04.2018, the evidence of defendant 1st set was also closed without giving sufficient opportunity to him. Learned counsel further submits that by the same order, an application filed for recalling the order dated 25.04.2018 was also rejected on the ground of wrong mentioning of name of defendant no. 1 in the recall petition as the name of defendant no. 1 was already expunged after his death. However, before this Court, he limits his prayer only to the extent that defendant-1st set be allowed to adduce his evidence for resolution of real controversy between the parties.

03. Learned counsel for the respondents 1st set vehemently opposes the submission made on behalf of the petitioner. Learned counsel further submits that the defendant 1st set was given ample opportunity to adduce his evidence, still he failed to produce his witnesses. The learned trial court has duly noted the fact that the suit was pending for the last 20 years and



the defendant- 1st set, despite opportunity, did not adduce their evidence(s).

04. Without going into the merits of the case, in the interest of justice, the impugned order dated 15.05.2018 passed by the learned Sub-Judge, Bakhari, Begusarai is set aside, subject to payment of cost of Rs. 10,000/- (ten thousand) to be paid by the petitioner/defendant 1st set to the respondent-1st set on the first date of hearing before the learned trial court.

05. The respondent 1st set will adduce his evidence within a month after the matter is taken up by the learned trial court and the learned trial court is directed to give ample opportunity to the plaintiff/respondent-1st set to controvert the same. The learned trial court is further directed to take steps for expeditious disposal of this case within three months from the date of receipt/production of copy of this order.

05. With the aforesaid observation, the present Civil Misc. Petition stands allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.04.2024
Transmission Date	NA

