

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.69 of 2024

1. Raghunandan Yadav Late Jawahar Yadav Resident of Village- Madhuban Tola-Turkahi, P.S. and District- Madhepura.
2. Mithun Kumar Son of Late Jawahar Yadav Resident of Village- Madhuban Tola-Turkahi, P.S. and District- Madhepura.
3. Bandana Kumari Wife of Ram Prakash Kumar, D/o Late Jawahar Yadav Resident of Village- Kolhua, P.O.- Kalhua, P.S.- Shankarpur, District- Madhepura.
4. Kalpana Kumari Wife of Ravindra Kumar Ravi, D/o Late Jawahar Yadav Resident of village- Mojma, P.O.- Mojma, P.S.- Shankarpur, District- Madhepura.
5. Ram Bilash Yadav Son of Late Debta Deci and Ram Bilash Yadav Resident of village- and P.O.- Narayanpur, P.S.- Banmankhi, District- Purnea.
6. Arvind Yadav Son of Late Debta Deci and Ram Bilash Yadav Resident of village- and P.O.- Narayanpur, P.S.- Banmankhi, District- Purnea.
7. Ajeet Yadav Son of Late Debta Deci and Ram Bilash Yadav Resident of Village- and P.O.- Narayanpur, P.S.- Banmankhi, District- Purnea.
8. Shobha Devi Wife of Ramchandra Prasad Yadav, Wife of Late Deep Narayan Yadav Resident of Village- Itahari, P.O.- Itahari, P.S.- Ghailadh, District- Madhepura.

... .. Petitioner/s

Versus

1. Kaushalya Devi Son of Late Sukhdeo Yadav Resident of village- Madhuban, Tola- Turkahi, P.S. and District- Madhepura.
2. Lalan Kumar Yadav Son of Late Sukhdeo Yadav Resident of village- Madhuban, Tola- Turkahi, P.S. and District- Madhepura.
3. Natho Yadav @ nathan Yadav Son of Late Sukhdeo Yadav Resident of Village- Madhuban, Tola- Turkahi, P.S. and District- Madhepura.
4. Chhatho Yadav @ Chhotelal Yadav Son of Late Sukhdeo Yadav Resident of Village- Madhuban, Tola- Turkahi, P.S. and District- Madhepura.Son of Late Sukhdeo Yadav
5. Most. Kamini Devi Wife of Late Jawahar Yadav Resident of Village- Madhuban, Tola- Turkahi, P.S.and District- Madhepura.
6. Abhimanyu Kumar Son of Late Jawahar Yadav Resident of village- Madhuban, Tola- Turkahi, P.S. and District- Madhepura.
7. Dharendra Yadav @ Birendra Yadav Son of Late Deep Narayan Yadav Resident of Village- Madhuban, Tola- Turkahi, P.S. and District- Madhepura.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate
Mr. Pranav Kumar Jha, Advocate
Mr. Chandra Mohan Jha, Advocate
For the Respondent nos.1 to 4: Mr. Nand Kishore Prasad-II, Advocate
Mr. Rupesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

5 15-04-2025 Heard learned counsel for the parties.

2. The petitioners are aggrieved by the order dated 12.10.2023 passed by the learned District Judge, Madhepura in Title Appeal No. 9 of 2023 whereby and whereunder the learned appellate court dismissed the title appeal of the appellants/petitioners at the stage of admission itself.

3. Learned counsel for the petitioners submits that the impugned order is devoid of any merit as is apparent from its bare perusal. It appears to be a whimsical order as the learned 1st appellate court dismissed the appeal mentioning that the learned counsel for the appellants prays for dismissal of the appeal and other side has no objection so the appeal is being dismissed. Learned counsel next submits that no such prayer was made by the learned counsel for the appellants/petitioners for dismissal of the appeal and still the learned 1st appellate court recorded this reason for dismissal of the appeal. It is a completely illegal order. No other reasons have been mentioned for dismissal of the appeal though petition for limitation was pending before the



learned 1st appellate court. Hence, the impugned order is not sustainable and the same be set aside.

4. Learned counsel appearing on behalf of respondent nos. 1, 2, 3 and 4, however, contends that there is no infirmity in the impugned order and the same is valid and correct. Learned counsel further submits that the appeal was time barred and though this fact has not been noted in the impugned order, the same was one of the consideration for dismissal of the appeal at the stage of admission itself. Learned counsel further submits that moreover the learned counsel appearing on behalf of appellants himself prayed for dismissal of the appeal and the learned 1st appellate court accepted the prayer and dismissed the appeal. Learned counsel further submits that if this Court is inclined to allow the present civil miscellaneous petition, since the Title Appeal No. 9 of 2023 arises out of Title Suit No. 10 of 1977 and considering the plight of the respondents, the learned 1st appellate court be directed to dispose of the appeal at the earliest and within some stipulated time period.

5. I have given my thoughtful consideration to the rival submission of the parties and perused the record. Perusal of record shows though the other respondents received their notices, they are unrepresented as they chose not to appear



before this Court and it seems they have nothing to say in the matter or to assist the Court.

6. The impugned order is a short one and is extracted for reference:-

“1. Case record has been put before the Court for hearing on the point of admission. Attendance has been filed on behalf of the appellants as well as on behalf of the respondent No. 01 to 04.

2. Learned Counsels of the appellants and the respondent no. 1 to 4 appeared.

3. Heard both sides on the point of admission. Sri Naresh Mohan Jha, Learned Counsel of the appellants prayed to dismiss the appeal as he wants to move before the higher court. Learned counsel of the respondents raised no objection on the prayer of the Learned Counsel of the appellants. Accordingly, on the prayer of the Learned Counsel appearing on behalf of the appellants the instant title appeal stands dismissed at the stage of admission itself.”

7. Bare perusal of the impugned order shows it is a completely cryptic order and the reason for dismissal of the appeal, given by the learned 1st appellate court is ludicrous. If there was issue of limitation, the learned 1st appellate court ought to have dealt the said issue and thereafter passed any orders but it did not do so. The learned 1st appellate court dismissed the appeal without assigning reasons and only mentioning the fact that the learned counsel for the appellants



asked for dismissal of the appeal and therefore he was dismissing the appeal shows a very casual and careless approach of the learned 1st appellate court in passing orders. The learned first appellate court has perhaps forgotten that legislature provided the statutory remedy of appeal for a greater cause and the learned 1st appellate court should not have dealt the matter in such cavalier manner. This is a completely absurd order and could not be allowed to remain on record and, hence, the impugned order dated 12.10.2023 passed by the learned District Judge, Madhepura in Title Appeal No. 9 of 2023 is set aside.

8. Accordingly, the present petition stands allowed.

9. The learned 1st appellate court is directed to pass orders on the admission of appeal within a period of one month from the date of receipt/production of a copy of this order and if the appeal is admitted then proceed to dispose it of at the earliest and preferably within a period of six months as both parties have undertaken not to seek unnecessary adjournments and fully cooperate towards disposal of the appeal.

(Arun Kumar Jha, J)

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