

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.157 of 2025

1. Prashant Rajgarhia S/O Late Ajay Kumar Rahgarhia R/O Mohalla- Lal Bazar Bettiah ward no.33, under Bettiah Nagar Parishad, P.O. and P.S. Bettiah Town, District West-Champaran, presently residing at B.125/126, Central Park, G.I.D.C., P.O. and PS Pandesara, P.S Pandesara, District-Surat, Gujarat
2. Sneha Lata Rajgarhia Snehlata, Widow of Late Ajay Kumar Rajgarhia R/O Mohalla- Lal Bazar Bettiah ward no.33, under Bettiah Nagar Parishad, P.O. and P.S. Bettiah Town, District West-Champaran, presently residing at B.125/126, Central Park, G.I.D.C., P.O. and PS Pandesara, P.S Pandesara, District-Surat, Gujarat.

... .. Petitioner/s

Versus

1. Nishant Raj S/O Govind Prasad Rajgarhia R/O Mohalla Lal Bazar ward no. 33, under Bettiah Nagar Parishad, P.O. and P.S. Bettiah Town District West Champaran.
2. Amit Kumar Rajgarhia, S/O Late Ajay Kumar Rajgarhia, R/o Mohalla Lal Bazar ward no.33, under Bettiah Nagar Parishad, P.O. and P.S. Bettiah Town District West Champaran, Presently R/O Mohalla Prestige Ackopolis, House Road, P.O. Giveknagar, P.S Adugodi, Bangalore, Karnataka.
3. Smt. Shalu Agarwal, D/O Late Ajay Rajgarhia, W/O Sri Sumit Agarwal, R/O 4-C Sagar Apartment, Parle Point P.S. Umra P.O SVR College, Surat Gujarat.
4. Smt. Pooja Agrawal, D/O Late Ajay Kumar Rajgarhiya W/O Sri Neeraj Agrawal R/O of Mahalla A.12. Nirala Nagar, P.O. and P.S. Nirala Nagar Lucknow (U.P)
5. Anita Agrawal, Widow of Late Bimal Rajgarhia R/O C. 503 Shyam Tirth Apartment opposite Satyam Status near Chandan Party Plot Satellite, Ahmedabad, Gujarat.
6. Ram Agrawal alias Ram Rajgarhia, S/O Late Bisal Rajgarhia, R/O C. 503 Shyam Tirth Apartment opposite Satyam Status near Chandan Party Plot Satellite, Ahmedabad, Gujarat.
7. Krishna Devi, D/O Late Bimal Rajgarhia R/O C. 503 Shyam Tirth Apartment opposite Satyam Status near Chandan Party Plot Satellite, Ahmedabad, Gujarat.
8. Baby Devi, D/O Late Bimal Rahgarhia R/O C. 503 Shyam Tirth Apartment opposite Satyam Status near Chandan Party Plot Satellite, Ahmedabad, Gujarat.



9. Birendra Kumar Srivastava, S/O Late Sarjug Prasad R/O Mohalla Banuchhpar, P.O, Bettiah, P.S Bettiah Mufassil, Bettiah, West Champaran.
10. Govind Prasad Rajgarhia, S/O Late Surajmal Rajgarhia, R/O Mohalla Lal Bazar ward no.33, under Bettiah Nagar Parishad, P.O. and P.S. Bettiah Town District West Champaran.
11. Poonam Saraf, W/O Om Prakash Saraf, R/O Mohalla Lal Bazar, Church Road, Ward No. 24, P.O. and P.S.- Bettiah, District-West Champaran.
12. Ravi Kumar Goenka, S/O Late Bhagwan Das Goenka, R/O Mohalla Lal Bazar Bettiah, Christian Quarter, Ward No. 24, P.O and P.S- Bettiah, District-West Champaran.
13. Sudha Goenka, W/O Ravi Kumar Goenka, R/O Mohalla Lal Bazar Bettiah Christian Quarter, Ward No. 24, P.O and P.S- Bettiah, District-West Champaran.
14. Atul Kumar Goenka, S/O Late Bhagwan Das Goenka, R/O Mohalla Lal Bazar Bettiah, Christian Quarter, Ward No. 24, P.O and P.S- Bettiah, District-West Champaran.
15. Soni Goenka, W/O Atul Kumar Goenka, R/O Mohalla- Lal Bazar Bettiah, Christian Quarter, Ward No. 24, P.O and P.S- Bettiah, District-West Champaran.
16. Sanjay Kumar Goenka, S/O Late Bhagwan Das Goenka, R/o Mohalla-Lal Bazar, Christian Quarter, Ward No. 24, P.O and P.S- Bettiah, District-West Champaran.
17. Jyoti Goenka, W/O Sanjay Kumar Goenka, R/O Mohalla-Lal Bazar, Christian Quarter, Ward No. 24, P.O and P.S- Bettiah, District-West Champaran.
18. Babita Sharma, W/O Dr. Shiv Shankar Kumar, R/O Mohalla-Vivekanand Colony, Pashchim Gumti Banuchhpar, Bettiah, P.S- Bettiah Muffasil, P.O- Bettiah, District-West Champaran.
19. Arun Kumar Rai, S/O Late Brajishor Rai, R/O Mohalla- Loharpatti, Bettiah Ward No. 01, P.O.-Barwat Pasrain, P.S- Bettiah Muffasil, District-West Champaran.
20. Jai Prakash Gupta, S/o - Late Bhikari Prasad, R/o - Mohalla- Kamalnath Nagar, Bettiah, Azad Path Gali, Ward No. 23, P.O. and P.S. - Bettiah, District- West Champaran.
21. Ashok Kumar Poddar, S/O Late Radha Kishan Poddar, R/O Mohalla-Lal Bazar. Hazarimal Dharamshala Market, Bettiah, Ward No.24, P.O and P.S - Bettiah, District-West Champaran.
22. Brij Kishor Nathani, S/O Late Kishan Prasad Nathani, R/O 126, Ambika Saw Mills, Near Syndicate Bank, Kadipur, Gurgaon, Haryana.
23. Bhawna Priya, W/O Jai Prakash Gupta, R/O Azad Path Gali, Kamalnath Nagar, Ward No. 23, P.O and P.S - Bettiah, District-West Champaran.
24. Sharda Devi, W/O Kedar Prasad, R/O Mohalla-Ujjain Tola, Shanti Nagar, Bettiah, P.O and P.S- Bettiah, District, District-West Champaran.
25. Om Prakash Saraf, S/O Late Vishwanath Prasad Saraf, R/O Mohalla-Lal Bazar, Church Road, Bettiah, Ward No. 24, P.O. and P.S- Bettiah, District-



West Champaran.

26. Chanda Mohan Ojha, S/O Late Muktinath Ojha, R/O Village- Lohiyaria, Jadochapar, P.O.-Lohoyaria, P.S-Chanpatia, District-West Champaran.
27. Amit Kumar Rai, S/O Late Maheshwar Prasad Rai, R/O Village- Bilaspur, P.O and P.S - Ramnagar, District- West Champaran.
28. Ruby Rai, W/O Amit Kumar Rai, R/O Village- Bilaspur, P.O and P.S Ramnagar, District-West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Parth Gaurav, Advocate Mr. Rahul Kumar, Advocate Mr. Kumar Saurav, Advocate
For the Respondent/s	:	Mr. Ashish Giri, Sr. Advocate Mr. Vijay Shanker Tiwari, Advocate Ms. Abhilasha Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 31-01-2025

Record has been taken up on mentioning being made on behalf of the petitioners.

2. Heard learned counsel for the petitioners as well as learned senior counsel appearing on behalf of respondent nos. 1 and 10.

3. The petitioners have approached this Court seeking direction to the learned Subordinate Judge I, West Champaran, Bettiah for disposal of applications pending before it in Title Suit No. 68 of 2020 and for this reason I do not think notice is required for other respondents.

4. Learned counsel for the petitioners submits that earlier vide order dated 18.01.2021, the learned trial court



ordered for maintaining status quo over the suit property restraining the parties. Thereafter, an application has been filed on behalf of defendant nos. 1 and 10 on 18.11.2021 seeking recall of the ex-parte order. Furthermore, a number of applications have been filed on behalf of the plaintiffs/petitioners which are still pending before it and these applications are not being taken up for disposal. Meanwhile, respondent no. 1 filed Civil Miscellaneous No. 04 of 2025 seeking direction to the learned trial court for disposal of application dated 18.11.2021 filed for vacating the order of status quo and the same was disposed of on 09.01.2025 directing the learned trial court to dispose of the application within a month from the date of order. But the respondent no. 1 did not inform the Court that injunction applications filed by the plaintiffs are still pending. Learned counsel further submits that the learned trial court may be directed to dispose of the applications filed by the plaintiffs along with application filed by defendant nos. 1 and 10 for recall of the ex-parte order dated 18.01.2021.

5. Learned senior counsel appearing on behalf of defendant/respondent nos. 1 and 10 submits that the petitioners have not approached this Court with clean hands and have suppressed the fact that it is the plaintiffs/petitioners who have



been lingering the matter before the learned trial court. The application seeking injunction was filed against defendant nos. 1 and 10 only and ex-parte order was passed for maintaining status quo till the appearance of the defendants. But when the defendant nos. 1 and 10 appeared, the order was construed as having been passed against all the defendants and it was contended by the plaintiffs that till all the defendants come on board, no order should be passed on recall petition and in that manner, the recall petition dated 18.11.2021 has been kept pending. Learned counsel further submits that thereafter these plaintiffs who have been taking time before the learned trial court delaying the matter.

6. Learned senior counsel further submits that there is no occasion for this Court to issue direction to the learned trial court in the present matter as powers under Article 227 of the Constitution cannot be invoked in casual manner to interfere with the day-today functionary of the subordinate courts. With regard to power under Article 227, learned counsel refers to some decisions of the Hon'ble Supreme Court wherein the scope and jurisdiction of Article 227 have been discussed. In the case of *Jai Singh and Others Vs. Municipal Corporation of Delhi and Another*, reported in (2010) 9 SCC 385 with regard



to power of the High Court under Article 227 of the Constitution of India. Paragraph no. 42 reads as under:-

“42. Undoubtedly, the High Court has the power to reach injustice whenever, wherever found. The scope and ambit of Article 227 of the Constitution of India had been discussed in the case of The Estralla Rubber Vs. Dass Estate (P) Ltd., [(2001) 8 SCC 97] wherein it was observed as follows:

"The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this article cannot exercise its power as an appellate court or substitute its own judgment in



place of that of the subordinate court to correct an error; which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to."

Further, the learned counsel for the respondents refers to the decision of the Hon'ble Supreme Court in the case of ***Manohar Lal (Dead) by Lrs. Vs. Ugrasen (dead) Lrs. and Others***, reported in ***(2010) 11 SCC 557***, paragraph nos. 48, 49 and 51 of which read as under:-

"48. The present appellants had also not disclosed that land allotted to them falls in commercial area. When a person approaches a Court of Equity in exercise of its extraordinary jurisdiction under Article 226/227 of the Constitution, he should approach the Court not only with clean hands but also with clean mind, clean heart and clean objective. "Equally, the judicial process should never become an instrument of appreciation or abuse or a means in the process of the Court to subvert justice." Who seeks equity must do equity. The legal maxim "Jure naturaw aequum est neminum cum alterius detrimento et injuria fieri locupletiore", means that it is a law of nature that one should not be enriched by the loss or injury to another. (vide The Ramjas Foundation & Ors. Vs. Union of India & Ors.



AIR 1993 SC 852; K.P. Srinivas Vs. R.M. Premchand & ors. (1994) 6 SCC 620 and Nooruddin Vs. (Dr.) K.L. Anand (1995) 1 SCC 249, para 9).

49. Similarly, in Ramniklal N. Bhutta & Anr. Vs. State of Maharashtra & Ors. AIR 1997 SC 1236, this Court observed as under:-

"10. The power under Article 226 is discretionary. It will be exercised only in furtherance of interest of justice and not merely on the making out of a legal point.....the interest of justice and the public interest coalesce. They are very often one and the same. The Courts have to weigh the public interest vis-a-vis the private interest while exercising....any of their discretionary powers." (Emphasis added).

51. In Abdul Rahman Vs. Prasony Bai & Anr. AIR 2003 SC 718; S.J.S. Business Enterprises (P) Ltd. Vs. State of Bihar & Ors. (2004) 7 SCC 166; and Oswal Fats & Oils Ltd. Vs. Addl. Commissioner (Admn), Bareilly Division, Bareilly & Ors. JT 2010 (3) SC 510, this Court held that whenever the Court comes to the conclusion that the process of the Court is being abused, the Court would be justified in refusing to proceed further and refuse relief to the party. This rule has been evolved out of need of the Courts to deter a litigant from abusing the process of the Court by deceiving it."

Learned counsel next refers to the decision of the Hon'ble Supreme Court in the case of **TGN Kumar Vs. State of Kerala and Others**, reported in **(2011)2 SCC 772**, paragraph



nos. 13 and 14 of which reads as under:-

13. *Similarly, while it is true that the power of superintendence conferred on the High Court under Article 227 of the Constitution of India is both administrative and judicial, but such power is to be exercised sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority. In any event, the power of superintendence cannot be exercised to influence the subordinate (1977) 4 SCC 551 judiciary to pass any order or judgment in a particular manner.*

14. *In Jasbir Singh Vs. State of Punjab¹⁰, this Court observed that:*

"So, even while invoking the provisions of Article 227 of the Constitution, it is provided that the High Court would exercise such powers most sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority. The power of superintendence exercised over the subordinate courts and tribunals does not imply that the High Court can intervene in the judicial functions of the lower judiciary. The independence of the subordinate courts in the discharge of their judicial functions is of paramount importance, just as the independence of the superior courts in the discharge of their judicial functions. It is the members



of the subordinate judiciary who directly interact with the parties in the course of proceedings of the case and therefore, it is no less important that their independence should be protected effectively to the satisfaction of the litigants."

(See also: Trimbak Gangadhar Telang & Anr. Vs. Ramchandra Ganesh Bhide & Ors.11; Mohd. Yunus Vs. Mohd. Mustaqim & Ors.12 and State, New Delhi Vs. Navjot Sandhu & Ors.13.)

7. Learned counsel reiterates that unless there is any dereliction of duty on part of the subordinate courts, the High Court should not interfere with the functioning of the learned trial court in casual manner and no direction should be given to the learned trial court merely on asking of the parties. Learned senior counsel further submits that so far pending applications are concerned, the learned trial court is at liberty to take those applications as per its convenience and dispose of the same without being directed by this Court as there is no allegation that the learned trial court is not proceeding in the matter showing promptness and has been unduly delaying the matter.

8. By way of reply, learned counsel for the petitioners that if the ex-parte injunction order was only till



appearance of defendant nos. 1 and 10, there was no need for them to file the application on 18.11.2021 for recalling of the ex-parte order. Even after passing of injunction order on 18.01.2021, the defendant nos. 1 and 10 have executed altogether 12 registered sale deeds in favour of different persons. Learned counsel further submits that the petitioners have approached this Court only with a prayer for disposal of applications of plaintiffs along with with application filed by defendant nos. 1 and 10 and they have not prayed for any relief for expeditious disposal of the main suit and as such there is no occasion for bringing on record the order sheet of the details of the adjournment.

9. Having regards to the facts and circumstances and submissions of the parties, this Court would like to make it clear that this Court, under Article 227 of the Constitution of India, has not passed any order interfering with the functioning of the learned trial court. However, it is much apparent that if certain applications are pending since 2020 and these applications are not being taken up for hearing or disposed of, it would naturally result in delay in the disposal of the main matter and any prudent person would agree with it. Expeditious disposal of civil cases are in the interest of all involved and also



as a matter of public policy delay in disposal of civil cases should be avoided as it erodes the faith of general public in justice dispensation system. In this background orders are passed by this Court exercising power and jurisdiction under Article 227 and order dated 09.01.2025 in Civil Miscellaneous No. 04 of 2025 has been passed in similar manner.

10. From perusal of the record and submissions of the parties, it appears that the injunction petition filed under Order 39 Rule 1 and 2 of the Code of Civil Procedure by the petitioners dated 12.03.2020 is still pending. Similarly, petition dated 18.11.2021 filed by defendant nos. 1 and 10 is also pending. Thereafter, several applications have been filed as mentioned in the instant petition. Without going into further details, the learned trial court is directed to take up the applications which have been filed in the year 2020 and 2021 for expeditious disposal, considering the antiquity of the applications, strictly in accordance with law. Thereafter, other applications would be taken up by the learned trial court for disposal in accordance with law and as per its convenience as and when these applications are pressed by the respective parties. The order dated 09.01.2025 passed in Civil Miscellaneous No. 04 of 2025 will be read in consonance with



these directions.

11. With the aforesaid direction, the present petition stands disposed of.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2025
Transmission Date	NA

