

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1073 of 2017

1. Kapildeo Prasad Son of Late Nathun Sao.
2. Parmanu, Son of Kapildeo Prasad
3. Partiyush Both Minor Sons of Kapildeo Prasad null
4. Arth, Minor son of Annu Under his Guardianship All are Resident of Village-Telhara, P.O. Telhara, P.S. Telhara, District-Nalanda.

... .. Petitioner/s

Versus

1. Renu Devi W/o Rajesh Kumar, Resident of Village-Sri Nagar Masaurhi, P.S. Masaurhi, P.S. Masaurhi, District-Patna.
2. Benu Devi, W/o Kameshwar Prasad, resident of village-Khutanhin, P.S. Paroo, District-Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dhaneshwar Prasad Singh, Adv.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 28-01-2025

Heard learned counsel for the petitioners and I intend to dispose of the petition at the stage of admission itself.

2. The petitioners are aggrieved by the order dated 19.04.2017 passed by learned Munsif, Hilsa in Title Suit No. 14 of 2015 whereby and whereunder the application filed by the petitioners under Order 7 Rule 10 and under Section 151 of the Code of Civil Procedure has been rejected.

3. Learned counsel for the petitioners submits that the plaintiff/respondents have undervalued their suit and showed that the suit property is worth Rs. 99,000/- only whereas, the



valuation of the suit property ought to be Rs.30,00,000/- which would go beyond the pecuniary jurisdiction of the learned Munsif. Learned counsel further submits that earlier the same plaintiff filed Partition Suit No. 66 of 2013 in the Court of learned Sub-Judge, Hilsa involving the same suit property against the same parties and for the same reliefs but at that time the suit property was valued at Rs.5,00,000/- by the plaintiff himself. That Partition Suit was dismissed for default. Thereafter, the plaintiff filed the present suit valuing the same property for only Rs.99,000/- seeking same reliefs. Learned counsel further submits that the Market Valuation Chart has been annexed which shows the value of the land is Rs. 20,000/- per dismil and the suit property is one acre. Thus, learned counsel submits that the impugned order is not sustainable and the same needs to be set aside.

4. Despite service of notice none appeared for the respondents and the matter has been taken up for disposal in absence of the respondents.

5. Perused the record.

6. Perusal of record shows the learned trial court considered all the submissions of the petitioners and I find no reasons to take a different view from the reasoning adopted by



the learned trial court. It has also been clarified that in the previous suit one Bolero vehicle was included in the suit property and the valuation of the suit was less than the previous suit. Moreover, the question of payment of Court fee is between the Court and the plaintiff and further considering the fact that valuation of suit is more or less is a mixed question of fact and law and the same needs proper consideration and adjudication which should be done by the learned trial court in due course after framing of issues in this regard.

7. Therefore, I do not find any infirmity in the impugned order and hence, the impugned order dated 19.04.2017 is affirmed.

8. Accordingly, the present petition is dismissed.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.01.2025
Transmission Date	N/A

