

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1674 of 2017

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Md. Azam Alam Son of Jahiruddin, Resident of Village-Domohani, P.S.-Bahadurpur, District-Kishanganj.

... .. Petitioner/s

Versus

1. Sahista Begam Wife of Md. Azam Alam, Daughter of Jhari Bucs @ Anwar Alam, Resident of Village-Domohani, P.S.-Bahadurpur, District-Kishanganj.
2. Anjami Begam, Minor Daughter of Sahista Begum Under the Guardianship of her Mother Sahista Begam, Daughter of Jhari Resident of Village-Domohani, P.S.-Bahadurpur, District-Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Durga Nand Jha, Advocate
For the Respondent/s : Mr. Dilip Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 13-02-2025 Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. Learned counsel for the petitioner submits that the petitioner has challenged the order dated 17.05.2017 passed by the Principal Judge, Family Court, Kishanganj in Title Suit No. 13 of 2016 whereby and whereunder the petition dated 20.01.2017 filed by the petitioner has been rejected. Learned counsel further submits that Title Suit No. 13 of 2016 has been disposed of by the Principal Judge, Family Court, Kishanganj vide order dated 09.12.2019 and the present matter has become infructuous.

3. Learned counsel appearing on behalf of the



petitioner submits that vide the impugned order the application dated 20.01.2017 filed by the petitioner seeking DNA test of the child of respondent no.1 has been rejected. Learned counsel further submits that against the final order of Title Suit No. 13 of 2016, Misc. Appeal No. 113 of 2020 has been preferred before this Court which is pending in this Court and till disposal of the said miscellaneous appeal, the present petition be kept pending. Alternatively, the present petition may be tagged with the said miscellaneous appeal since the impugned order has merged with the final order.

4. I do not think the prayer of the learned counsel for the petitioner could be allowed for the simple reason that the title suit, in which the impugned order has been passed, has been disposed of and nothing remains in the matter as the substratum of the matter goes. The petitioner is already before this Court challenging the final order of Title Suit No. 13 of 2016 in Misc. Appeal No. 113 of 2020. Therefore, the present petition cannot be kept pending in anticipation of a favourable order in the miscellaneous appeal in favour of the petitioner. Similarly, there is no occasion for tagging the present matter with the miscellaneous appeal when the Title Suit No. 13 of 2016 has already been disposed of and the impugned order was



merely an interlocutory order.

5. Since the present petition has become infructuous, the same is disposed of as such. The petitioner is at liberty to raise all issues before the Appellate Bench in accordance with law.

(Arun Kumar Jha, J)

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