

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.399 of 2024

In
CIVIL MISCELLANEOUS JURISDICTION No.542 of 2023

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Sheela Gupta D/o Late Mosmat Nirmala Devi, Wife of Sunil Kumar Resident of Nirmala Complex, Chandragokhul Road Ward No. 17, P.S. - Gopalganj, District- Gopalganj.

... .. Petitioner

Versus

1. Kashi Nath Prasad, son of late Mohan Prasad, resident of village - Bideshi Tola, P.O. and P.S.-Thawe, District-Gopalganj.
2. Sunil Kumar S/o Kashi Nath Prasad, Resident of Village-Bideshi Tola, P.O. and P.S.-Thawe, District-Gopalganj.
3. Anil Kumar @ Anil Kumar Gupta, S/o Kashi Nath Prasad, Resident of Billage- Bidesi Tola, P.O. and P.S.- Thawe, District- Gopalganj.
4. Sunil Kumar Son of Suresh Prasad Resident of Village and P.O.- Sasamusa, P.S.- Kuchaikot, District- Gopalganj, presently residing at Nirmala Complex, Chandra Gokhul Road, P.O. and P.S. and District- Gopalganj.

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. P.N. Shahi, Sr. Advocate
		Mr. Ranjan Kumar Srivastava, Advocate
For the Opposite Parties :		Mrs. Nivedita Nirvikar, Sr. Advocate
		Mrs. Shashi Priya, Advocate
		Mr. Shashank Shekhar, Advocate
		Mr. Amarshakti, Advocate
		Mr. Pravin Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 11-07-2025

Heard Mr. P.N. Shahi, learned Senior Counsel for the petitioner and Mrs. Nivedita Nirvikar, learned Senior Counsel for the opposite parties.

2. The present application has been filed for recall of the observations made by this Court in paragraph no.4



of the order dated 21.09.2023 passed in Civil Misc. No.542 of 2023.

3. The order dated 21.09.2023 passed in Civil Misc. No.542 of 2023 reads as under:-

“Heard the parties.

2. *This application has been filed for quashing of order dated 14.03.2023 passed by learned Addl. District Judge-XI, Gopalganj in Misc. Appeal No.22 of 2022 in Title Suit No. 26 of 2022.*
3. *It has been submitted by learned counsel for the petitioners that he is the purchaser of two kathas of land in question and sale deed executed in his favour is under challenge. He prays that during pendency of the said suit, they may be permitted to get two kathas of land in question demarcated. He also undertakes that he will not make any construction or will not create any third party right over two kathas of the suit land.*
4. *Initially, Mr. Mohammad Sufyan, learned counsel for the respondents has opposed the prayer of the petitioner but now they have also agreed to the fact of demarcation, in view of the undertaking of the petitioners that no construction shall be made by the plaintiffs during pendency of the suit. The petitioners in presence of the defendants will get their*



land demarcated and fix pillars after the demarcation.

5. *Learned counsel for the parties have agreed that Title Suit No.26 of 2022 be disposed of at the earliest.*
6. *The Court below is directed to dispose of the Title Suit No.26 of 2022 within a year of receipt/communication of a copy of this order and file a compliance report to this Court.*
7. *With the aforesaid observation and direction, this application is disposed of”*

4. Thereafter, the respondent no.1 had moved before the Hon’ble Supreme Court by filing Special Leave to Appeal (c) Nos. 27924 of 2023 and the Hon’ble Supreme Court has passed the following order on 02.01.2024.

“Learned counsel appearing for the petitioner seeks permission to withdraw the Special Leave Petition, with liberty to apply before the High Court seeking clarification/recall of the observations made in paragraph ‘4’ of the impugned order.

In view of the aforesaid, the Special Leave Petition is dismissed as withdrawn, with liberty as prayed for.”

5. The original petitioner is the plaintiff in Title Suit No.26 of 2022. The aforesaid suit has been filed for



cancellation of the deed dated 21.08.2019 as the same has been claimed to be forged and fabricated. The original petitioner had also prayed for grant of injunction. The plaintiff had moved for injunction in the Court of the Sub Judge, which was rejected vide order dated 10.11.2022. The order rejecting the prayer for injunction was challenged by the plaintiff in the court of the Additional District Judge, XI, Gopalganj, who vide his order dated 14.03.2023 has held as follows:-

“13. Thus from the facts it appears that plaintiff has prima facie case and balance of convenience also lies in favour of plaintiff and she will suffer irreparable loss if ad interim injunction is not granted.

15. Hence, the present appeal is allowed and impugned order dated 10.11.2022 is hereby set aside. Ld. Trial court is directed to decide the application afresh in accordance with law after considering the documents as filed on behalf of both parties. However nothing mention herein, shall tantamount to be an expression of opinion on the merit of the case.”

6. Against the aforesaid order, the original defendants-respondents have filed Civil Misc. No.542 of 2023 in which this Court has passed the order dated 21.09.2023 as



indicated above.

7. Mr. P.N. Shahi, learned Senior Counsel for the petitioner has submitted that Title Suit No.26 of 2022 is pending in the Court of learned Sub Judge, Gopalganj. He has also submitted that during the pendency of the aforesaid title suit, the petitioner has prayed for injunction in the pending Title Suit and once the matter has been remanded back this Court should not have interfered in the order of remand by the appellate Court and the observations made in paragraph no.4 of the order dated 21.09.2023 may be recalled.

8. Mrs. Nivedita Nirvikar, learned Senior Counsel for the respondents has opposed the application of the petitioner and has submitted that there is no need of recalling the order dated 21.09.2023 as there is a direction for disposal of the Title Suit within one year of receipt/production of a copy of the order.

9. Considered the submissions of the parties and perused the materials on record.

10. Since the Title Suit is still pending and the injunction matter is to be decided, the observations made by this Court in paragraph no.4 of the order dated 21.09.2023 passed in Civil Misc. No.542 of 2023 is hereby recalled.



11. The Sub Judge, Gopalganj is directed to decide the injunction matter within fifteen days of receipt/production of a copy of this Court. After the disposal of the injunction matter, the Sub Judge will proceed for deciding the Title Suit within six months of the disposal of the injunction petition.

12. If any appeal is filed against the grant of injunction/rejection of injunction, the Sub Judge will not stop the proceeding of the title suit. Further, if any appeal is filed in the injunction matter, the appellate Court will not call for the original records of the Title Suit but, can call for the photocopies of the records of title suit and during the pendency of the injunction matter the Title Suit will proceed.

13. The Sub Judge will proceed *ex parte* against the non-cooperating party. If the plaintiff does not cooperate in the disposal of the title suit, the Sub Judge, will dismiss the title suit for non-cooperation. If the defendants do not cooperate in the disposal of the title suit, the Sub Judge will proceed *ex parte* against the defendants. If the title suit is not concluded within the aforesaid period of six months, as indicated above, the Sub Judge will file a report indicating the reasons for not disposing of the title suit within stipulated time. The Title Suit will



proceed on day-to-day basis without unnecessary adjournment to either side.

14. With the aforesaid observations and directions, this modification application is allowed.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	16.07.2025
Transmission Date	16.07.2025

