

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1917 of 2017

Sumitra Devi Alias Sumitra Kumari Sinha daughter of late Ramrachhi Singh
resident of village Salarpur, Police Station Parbatta, District Khagaria.

... .. Petitioner/s

Versus

1. Smt. Anita Devi Alias Smt. Anita Singh, wife of Anoopal Singh resident of village Gondiha, Police Station Parbatta, District Khagaria.
2. Kumari Amrika daughter of late Firangi Singh resident of village Salarpur, Police Station Parbatta, District Khagaria at present resident of village Karua, Police Station Chautham, District Khagaria.
3. Wandani Devi
4. Parbati Devi
5. Sabitri Devi
6. Meera Devi
7. Chandani Devi
Nos. 3 to 7 daughter of late Ramrachhi Singh
8. Pradeep Kumar Singh
9. Laloo Kumar Singh Both sons of late Ramrachhi Singh Residents of village Salarpur, Police Station Parbatta, District Khagaria.
10. Jogendra Singh
11. Permananda Singh Both sons of Loghey Singh
12. Kumari Chandrakala Devi
13. Anikia Devi Both daughters of Loghey Singh Residents of village Sondiha, Police Station Parbatta, District Khagaria.
14. Pintu Singh
15. Sintu Singh Both sons of late Anand Mohan Singh Residents of village Bikrampur, Police Station Bihpur, District Bhagalpur.
16. Radha Devi wife of Ramautar Singh daughter of Tarni Singh resident of village Jhandapur, Police Station Bihpur District Bhagalpur.
17. Mira Devi wife of Sakaldeo Singh resident of village Basagadha, Post Office and Police Station Kodna, District Katihar.
18. Laliya Devi wife of Radha Singh resident of village Sripur Basa, Police Station nd District Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kamal Nayan Chaubey, Sr. Advocte Mr.Ashok Kumar Garg, Advocate Mr. Dineshwar Pandey, Advocate Ms. Ritu Priyadarshani, Advocate
For the Respondent/s	:	Mr. Shashank Kashyap, Advocate



CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 29-07-2025 The record taken up on mentioning being made on behalf of the petitioner.

2. Heard learned senior counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the respondents.

3. The petitioner has approached this Court for quashing the order dated 26.08.2017 passed by the learned Sub Judge, Gogari, Khagaria in Final Decree Case No 01/2005 and the entire subsequent proceeding.

4. Perusal of record shows that the present civil miscellaneous petition has been filed on 02.11.2017. However, in the present civil miscellaneous petition, one I.A.No.01/2025 has been filed on 28.02.2025 wherein it has been mentioned that Final Decree Case No.01/2005 has already been disposed of on 28.10.2017 and it also transpires from the same interlocutory application that the petitioner has already filed an appeal vide Final Decree Appeal No. 01/2024, which is pending before the court of learned District Judge-10, Khagaria. The fact which is apparent is that the civil miscellaneous petition has been filed when there has been no Final Decree Case No.01/2025 pending before any court. But this fact was never brought to the notice of



this Court till the date of filing of the I.A.No.01/2025. Moreover, when the petitioner has already filed an appeal against the final order of Final Decree Case No.01/2005, in all fairness, the petitioner ought to have mentioned this fact before this Court at the first occasion and could not have kept the matter pending for all these years. Though the learned senior counsel has tried to assail the order dated 26.08.2017 for making out a case for entertainment of the present petition under Article 227 of the Constitution of India, but I think the whole argument is misconceived and rather fallacious. When there was no Final Decree Case No.01/2005 pending, *raison d'être* of the present civil miscellaneous petition goes. Even if the contention is taken for consideration that the petitioner was not having knowledge when the present civil miscellaneous petition has been filed, after filing the appeal, the petitioner could have straightway informed this Court, but the same was not done.

5. At this stage, learned senior counsel seeks permission to withdraw the present petition with liberty to raise all issues involved in the present matter before the learned appellate court in accordance with law.

6. Though the petitioner does not deserve any sympathy, but having regard to the submission of learned senior



counsel, the present petition is dismissed as withdrawn with the liberty as aforesaid.

(Arun Kumar Jha, J)

V.K.Pandey/-

U			
---	--	--	--

