

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1079 of 2024**

=====

Pati Devi @ Mahapti Devi Wife of Umrao Yadav @ Tusri Yadav, Resident of village- Nakatpura Kashochak, P.S. - Bihar, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The District Magistrate, Cum Collector, Nalanda.
3. The Superintendent of Police, Nalanda.
4. The Circle Officer, Biharsharif, Nalanda.
5. The S.H.O. Bihar, Nalanda.
6. Sadasiv Sadabahar, S/o Late Rajesh Prasad, Resident of village- Bagnabad, Twon, P.S. Bihar, District - Nalanda, at present resident of below the Ranipur Khirkee tal, P.S - Mehdiganj, District- Patna.
7. Radhe Shaym Yadav, Son of Late Pragash Yadav, Resident of village- Gauragarh, P.S. - Bihar, District- Nalanda.
8. Seeta Ram Yadav, Son of Late Pragash Yadav, Resident of village- Gauragarh, P.S. - Bihar, District- Nalanda.
9. Laro Yadav, Son of Late Pragash Yadav, Resident of village- Gauragarh, P.S. - Bihar, District- Nalanda.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Bishwa Bijay Kumar, Advocate
For the Respondent/s : Mr. Mahtab Alam, AC to SC-20

=====

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 04-02-2025

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

2. The petitioner is aggrieved by a number of orders passed by the learned trial court as well as appellate court. The petitioner is plaintiff of Title Suit No. 46 of 2013 in which learned Sub Judge-VI, Biharsharif, Nalanda passed an order



dated 23.03.2022 on the petition of respondent no. 6 seeking directions against the plaintiff for maintaining the suit property in its previous form. The said application was allowed and against the order of learned Sub Judge-VI, Biharsharif, Nalanda dated 23.03.2022, the plaintiff preferred Misc. Appeal No. 02 of 2022 and the said appeal was dismissed as not maintainable. Thereafter, the plaintiff approached the learned trial court by moving an application dated 20.05.2024 filed under Order 39, Rule 2A read with Section 151 of the Code of Civil Procedure and another petition dated 29.05.2024 and both the petitions came to be rejected by the learned trial court. The petitioner has now approached this Court against the aforesaid orders.

3. Heard learned counsel for the petitioner.

4. Learned counsel for the petitioner submits that the orders are not sustainable as the learned trial court has not considered the facts and circumstances of the case before it. Learned trial court has not considered the fact that the respondent no. 6 is trying to change the nature of the suit property and not the plaintiff/petitioner. Learned counsel further submits that respondent no. 6 has been trying to erect boundary wall over the suit property.

5. Perused the record.



6. From bare perusal of the record, I find that the petitioner is aggrieved more by the acts of respondent no. 6 as the plaintiff/petitioner claims that the respondent no. 6 has been constructing boundary wall over the suit land and the petitioner is hardly aggrieved by the order dated 23.03.2022 passed by learned Sub Judge-VI, Biharsharif, Nalanda in Title Suit No. 46 of 2013 and order dated 25.04.2022 passed in Misc. Appeal No. 02 of 2022 by learned District Judge, Biharsharif, Nalanda. Since it appears that the orders have been complied with the help of District Magistrate, Biharsharif, Nalanda which was against the plaintiff for removal of statue of her husband and digging his burial place which has been made over the disputed property.

7. If the plaintiff is aggrieved by the acts of respondent no. 6 for constructing boundary wall over the suit property, the option is open to the plaintiff to approach learned trial court seeking appropriate remedy for redressal of her grievance. The applications dated 29.05.2024 and 03.06.2024 have not been brought on record but from the order sheet of the learned trial court it appears that these applications were filed for compliance of order dated 23.03.2022. If the applications dated 29.05.2024 and 03.06.2024 are taken to be applications



filed for injunction, the remedy against rejection of such applications would lie in filing appeal under Order 43 Rule 1(r) of the Code of Civil Procedure and not in approaching this Court under Article 227 of the Constitution of India. Moreover, all the impugned orders are reasoned and speaking orders and this Court would not like to interfere with any of the orders.

8. In the light of aforesaid facts and circumstances, I do not find any merit in the present petition and the same is dismissed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.02.2025
Transmission Date	NA

