

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1172 of 2024

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Bibha Devi, Wife of Birendra Kumar @ Devendra Kumar, Resident of Village- Kaiyar, P.S.- Soikandra, District- Jamui, at present residing at Village- Koshla, P.S.- Nardiganj, District- Nawada.

... .. Petitioner/s

Versus

1. Ram Swarup Singh @ Rai Saheb Son of Late Kamta Prasad Singh Resident of Village- Koshla, P.S.- Nardiganj, District- Nawadah.
2. Smt. Usha Devi, Wife of Upendra Singh Resident of Village- Ghosrawan, P.S.- Giriyak, District- Nalanda at present residing at Sonaland Bokaro, L.H. More in House of R.B. Singh, Sonatard, Bokaro Naya More, P.S.- Sector- 4, Bokaro, District- Bokaro.
3. Shalini Kumari, Daughter of Sri Awadhesh Singh Residing at Village- Surajpur, P.S. and District- Nalanda at present residing at Village- Koshla, P.S.- Nardiganj, District- Nawadah.
4. Mikki Kumari, Daughter of Sri Awadhesh Singh Residing at Village- Surajpur, P.S. and District- Nalanda at present residing at Village- Koshla, P.S.- Nardiganj, District- Nawadah.
5. Birendra Kumar @ Devendra Kumar, Son of Late Harinandan Singh @ Haro Singh Resident of Village- Kaiyar, P.S.- Sikandra, District- Jamui, at present residing at Mohalla- Sheo Nagar, P.S. and District- Nawadah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 11-08-2025

The record taken up on mentioning being made on behalf of the petitioner.

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

3. The petitioner is aggrieved by the order dated 31.07.2019 passed in Misc. Case No. 77/2017 by the learned



Sub Judge-1, Nawada whereby and whereunder the miscellaneous case filed by the defendants/respondents have been admitted for consideration.

3. The learned counsel for the petitioner submits that the petitioner was plaintiff before the learned trial court, who has filed Partition Suit No. 145/2005, which was dismissed for default on 06.09.2017 by the learned Sub Judge-1, Nawada. The respondents, who are defendants, filed the miscellaneous case for its restoration. The learned counsel further submits that the defendants/respondents have filed a fraudulent compromise petition before the learned trial court in Partition Suit No. 145/2005. The learned counsel further submits that the learned trial court did not consider that the miscellaneous case filed on behalf of the respondents should not have been admitted as the plaintiff had not taken any steps for its restoration.

4. Perused the record.

5. From perusal of record, it is apparent that the present civil miscellaneous petition has been filed after much delay. The impugned order has been passed on 31.07.2019 and five years thereafter the present petition has been filed. Though, learned counsel for the petitioner submits that due to intervening Covid period, the civil miscellaneous petition could not be filed



earlier, but it is the fact that Covid period started from March, 2020 and continued till February, 2022, there is no explanation for not filing the civil miscellaneous petition prior to March, 2020 and subsequent to February, 2022.

6. Further, the petitioner has got all opportunities to challenge the maintainability of the Misc. Case No.77/2017 which has been pending before the court of learned Sub Judge-1, Nawada and he has already filed rejoinder on 07.10.2017. But the petitioner is now trying to avoid the miscellaneous case in which she has already appeared way back in the year 2017 without challenging its initiation.

7. Having regard to the cumulative effect of the aforesaid facts and circumstances, I do not find any merit in the present petition so as to interfere with the impugned order and hence, the impugned order dated 31.07.2019 is affirmed.

8. Accordingly, the present petition is dismissed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.08.2025
Transmission Date	NA

