

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1317 of 2019**

**In**  
**Civil Writ Jurisdiction Case No.17097 of 2014**

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Sonamani Devi @ Sonamani Keshari Daughter of Late Bhrigu Prasad Sah,  
R/o Mohalla - Madhubani Bazar in the Town of Purnea, P.S. Khajanchi Hat,  
P.O. Purnea, Distt. - Purnea.

... .. Appellant.

Versus

1. Nagina Prasad Keshri Son of Late Sarjug Prasad Sah Resident of Madhubani Bazar P.O. and P.S. Khajanchi Hat District-Purnea.
2. Ram Chandra Prasad Keshri Son of Late Sarjug Prasad Sah Resident of Madhubani Bazar P.O. and P.S. Khajanchi Hat District-Purnea.
3. Nand Kishore Prasad Keshri Son of Late Sarjug Prasad Sah Resident of Madhubani Bazar P.O. and P.S. Khajanchi Hat District-Purnea.
4. Parma Nand Prasad Keshri Son of Late Harihar Prasad Keshri Resident of Madhubani Bazar P.O. and P.S. Khajanchi Hat District-Purnea.
5. Sadhu Saran Keshri Son of Late Harihar Prasad Keshri, Resident of Madhubani Bazar P.O. and P.S. Khajanchi Hat District-Purnea.
6. The State of Bihar.
7. The Collector, Purnea.
8. The Deputy Collector Land and Revenue (DCLR) Purnea.
9. The Circle Officer Purnia, District Purnea.
10. Logni Devi Wife of Late Bhrigu Prasad Sah Resident of Mohalla Madhubani Bazar P.O. and P.S. Khajanchi Hat District-Purnea.
11. Ahilya Devi D/o Late Bhrigu Prasad Sah Resident of Mohalla Madhubani Bazar P.O. and P.S. Khajanchi Hat District-Purnea.

... .. Respondents.

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**Appearance :**

For the Appellant : Mr. Sunil Kumar Pathak, Advocate.  
For the Respondents : Mr.

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**  
**HONOURABLE MR. JUSTICE ALOK KUMAR SINHA**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 03-04-2025**

**I.A. No.1 of 2024:**

Heard I.A. No.1 of 2024.



2. There is a delay of about 63 days in filing the present L.P.A. No.1317 of 2019.

3. For the reasons stated in the application read with the affidavit, I.A. No.1 of 2024 stands allowed, while condoning the delay of about 63 days in filing the present L.P.A No.1317 of 2019.

**L.P.A. No.1317 of 2019:**

4. With the consent of the learned counsel for the appellant, the present L.P.A. No.1317 of 2019 is taken up for final disposal.

5. In the writ petition (C.W.J.C. No.17097 of 2014), the writ petitioner (appellant) had prayed for the following relief(s):

“a) For quashing the order dt.07/8/2014 (Annexure 1) passed in pending Title Suit No.210/70 by the Learned Sub-Judge-I, Purnea, whereby and where under the Miscellaneous Petition dt.27/9/2013 filed by the Petitioner for preparation of final decree after requisite alteration and reciprocal adjustment in preliminary decree in view of subsequent developments vis-a-vis portion of schedule land wherein the portion allotted to the Petitioner has been claimed and availed by the Contesting Respondents; claimed and availed by the Contesting Respondents; has been rejected



holding the same as not maintainable; which is erroneous and illegal both on law and facts.

**b)** Consequently for direction upon the Learned Court below to restore the Miscellaneous Petition dt.27/9/13 and decide the same in accordance with law taking into consideration the subsequent developments having direct adverse bearing upon right and interest of the petitioners, so as to do the substantive justice vis-a-vis in law of equity and good conscience and as also to avoid the further multiplicity of litigation.

**c)** The petitioner also prays to restrain the official respondents particularly the Circle Officer, Purnea not to effect any mutation with respect to properties in question, which are subject matter of adjudication in the instant lis i.e. lands of Mauja-Banbhag, T.No.-125, Khata No.-429, Plot No.-2874, measuring 1.42 acres and Plot No.-2876 measuring 3.57 acres; possessed by Respondent No.1 to 3 since inherited as Schedule-E, properties after death of their father namely Sarju Prasad Sah, who was defendant no.-1 in suit in question.

**d)** Any other relief or reliefs as Your Lordships may deem fit and proper for which the petitioner is very much entitled under the facts and circumstances of the case.”

**6.** The learned Single Judge has committed error in entertaining C.W.J.C. No.17097 of 2014 in respect of trial



court's order dated 07.08.2014 passed in Title Suit No.210 of 1970 on the file of Sub-Judge-I, Purnea. The Hon'ble Supreme Court in the case of **Municipal Corporation of Greater Mumbai and Others Versus Vivek V. Gawde etc. etc.** reported in **2024 SCC OnLine SC 3722** has held that the writ petition is not the remedy insofar as challenge to the trial court's order. On this score, learned Single Judge has committed error. Therefore, matter would go to the root of the matter insofar as entertaining C.W.J.C. No.17097 of 2014.

7. Accordingly, the order of the learned Single Judge dated 28.06.2019 passed in C.W.J.C. No.17097 of 2014 stands set aside only on the score that writ petition is not maintainable against the order of the trial court (Sub Judge-I, Purnea) dated 07.08.2014 passed in Title Suit No.210 of 1970. Whatever the observations made by the learned Single Judge in its order dated 28.06.2019 in C.W.J.C. No.17097 of 2014 would not influence the Forum which appellant would invoke in respect of challenge to the order dated 07.08.2014 passed in Title Suit No.210 of 1970 by the Sub Judge-I, Purnea.

8. L.P.A. stands dismissed.

9. The time spent in the Writ Court and L.P.A. shall be taken into consideration for the purpose of condonation of



delay by the concerned Forum in the light of Section 14 of the  
Limitation Act, 1963.

**(P. B. Bajanthri, J)**

**( Alok Kumar Sinha, J)**

P.S./-

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