

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16100 of 2013

- =====
1. Ajanti Devi Daughter of Lalan Singh.
 2. Harendra Kumar Singh Son of Lalan Singh.
 3. Madan Singh Son of Late Yadu Singh all Resident of Village and P.O. - Dadhapa, P.S. - Deo, District - Aurangabad (Bihar).

.... Petitioner/s

Versus

1. Gupteshwar Singh, Son of Sheonandan Singh.
2. Sidheshwar Singh Son of Sheonandan Singh.
3. Krishna Singh Son of Sheonandan Singh.
4. Murari Singh, Son of Sheonandan Singh all Resident of Village and P.O. - Dadhapa, P.S.- Deo, District - Aurangabad (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

2 08-01-2015 Heard Mr. Sanjeet Kumar, the learned counsel
appearing on behalf of the petitioners.

The petitioners, who are the defendants in the suit, are grieved by the order dated 06.06.2013 passed in Partition Suit No. 33 of 2007 whereby the prayer for amendment in the written statement has been rejected. The suit has been filed by the plaintiffs for partition of the properties mentioned in the schedule of the plaint. The petitioner-defendants have filed their written statement contesting the claim of the plaintiffs that the suit property is joint family property and have asserted that the suit

property is not joint family property rather exclusively belongs to the defendants. The prayer, therefore, has been made for dismissal of the suit. It further transpires that the defendants, thereafter, filed a petition praying for amendment in the written statement seeking to add some property which according to the defendants was joint family property and had not been included for partition as suit property by the plaintiffs. The learned court below has rejected the prayer for amendment after considering the pleadings of the parties particularly the defence of the petitioners that the suit properties are not joint family properties and the suit be dismissed on that score.

The learned court below has rightly come to the conclusion that if the petitioner-defendants was intending to get partition of the properties which according to him was joint family properties but left out by the plaintiffs, he ought to have made a counter claim.

Considering the submissions by the learned counsel for the petitioners and the facts and circumstances of the case, this Court is not persuaded to find any illegality in the impugned order.

The writ application is, therefore, dismissed.

Devendra/-

(V. Nath, J.)

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