

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.818 of 2010

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1. Sunil Kumar Roy S/O Late Indu Bhushan Roy.
 2. Rekha Roy W/O Late Nirmal Kumar Roy.
 3. Anup Kumar Roy.
 4. Ashok Kumar Roy both S/O Late Nirmal Kumar Roy.
 5. Shipra Roy w/o late Sujit Kumar Roy.
 6. Sudiptu Roy son of late Sujit Kumar Roy.
 7. Ramola D/O Rabindra Nath Roy.
 8. Kalyan Kumar Roy S/O Rabindra Nath Roy all Resident Of Mohalla Nayagaon, Police Station East Colony, Jamalpur, Post Office Jamalpur, District Munger.

.... Petitioner/s

Versus

1. Mahendra Yadav S/O Late Jogi Gope @ Jogi Yadav @ Jogi Mahato Resident Of Mohalla Nayagaon Jamalpur, Police Station East Colony, Jamalpur, Post Office Jamalpur, District Munger.
2. Brahmdeo Yadav.
3. Surendra Yadav both S/O Late Jogi Gope Resident Of Mohalla Nayagaon, Police Station East Colony, Jamalpur, Post Office Jamalpur, District Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harshwardhan Sahay
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

19 05-05-2015 Heard Mr. Maitin, the learned senior counsel appearing on behalf of the petitioners as well as the learned counsel for the defendant-opposite parties.

Calling in question the order by which the ex parte decree has been set aside on the application filed by the defendants

under Order 9 Rule 13, the plaintiffs have filed the present revision application.

After considering the submissions and perusal of the impugned order, it is pellucid that the crucial issue in the suit relates to title over the immovable property (suit property). The trial court has also come to the finding that there has been some negligence by the learned advocate who appeared on behalf of the plaintiffs. Though, this aspect was contested by the plaintiff-petitioners but the learned court below after considering the totality of the fact-situation as well as evidence has allowed the prayer on behalf of the defendants after imposing the cost of Rs. 500/-.

After careful consideration of the matter, this Court does not find error of jurisdiction or illegality in the impugned order. However, in order to balance the equilibrium the cost of Rs. 500/- awarded to the plaintiffs is enhanced to 10,000/- and the impugned order is modified to that extent only. The aforesaid cost shall be deposited by the defendants in the court below within a period of one month and shall be a pre condition for taking up the suit for hearing. The submission on behalf of the plaintiff-petitioners is taken on record that the decree has been executed and possession has been taken by the plaintiffs.

The revision application is accordingly dismissed with modification that the cost of Rs. 500/- as awarded by the learned court below is enhanced to Rs. 10,000/-. In view of the fact that the suit has been filed in the year 1985, the trial court is directed to positively dispose of the suit at the earliest.

(V. Nath, J)

Devendra/-

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