

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8743 of 2010

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1. Bandana Ghosh W/O Late Dr. Samir Santo Krishna Ghosh R/O Moh Rajendra Nagar, Prem Chand Marg, P.S. Kadam Kuan, Distt-Patna
2. Dr. Joy Ghosh S/O Late Dr. Samir Santo Krishna Ghosh R/O Moh Rajendra Nagar, Prem Chand Marg, P.S.Kadam Kuan, Distt-Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Registrar, Civil Court, Patna, Distt-Patna
3. Shyam Babu Rai S/O Rameshwar Prasad Rai R/O Road No.6 D, Mohalla-South Gardanibagh, P.S.Gardanibagh, Distt-Patna
4. Ram Babu Rai S/O Rameshwar Prasad Rai R/O Road No. 6 D, Mohalla-South Gardanibagh, P.S.Gardanibagh, Distt-Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sushanta Kumar Das
Mr. Ratna Das

For the Respondent State : Mr. Kamil Akhtar, AC to AAG 9

For Respondent No.4 &5 : Mr. J S Arora

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 21-07-2015

23rd April, 2010 order passed by Sub Judge-IV, Patna, in

Title Suit No. 155 of 2007 is under challenge. By virtue of this order, the court below has rejected the prayer for amendment of the petitioners who also happen to be the plaintiffs in the title suit. The primary reason for rejection of the amendment petition is that if the amendment is allowed, the nature of the suit changes, which, in turn, will cause irreparable injuries to the defendants.

Annexure-1 is the plaint, based on which T. S. No. 155/2007 was registered. Reading of the plaint indicates that the



plaintiffs were irked by tying of cows and buffaloes on a plot of land rather than seeking right, title and interest, if not, possession on the disputed piece and parcel of land. Paragraphs after paragraphs, the same story is repeated and finally when it came down seeking a relief and declaration, the reliefs are sought against tying of cows and buffaloes on the land, with order of restraint against the defendants rather than seeking a declaration of title and possession over the suit land.

A written statement was filed. A plea was taken that the land in question was validly purchased after due consideration on the basis of a sale deed executed by one Ajay Kumar, who was purchaser from Bhola Nath Mitra and in support thereof documentary evidence was brought on record.

As a retaliation to the said defence, a detailed application for amendment, which is Annexure-3 to the writ application, came to be filed. Now the entire drafting and pleading changes. The issue of right, title and interest is talked about as also a declaration is being sought to declare the said registered deed as fraudulent, manipulated, not binding etc. etc.

In view of the above facts, the court below heard the parties and came to a considered opinion that if the amendment is allowed, it changes the entire suit. The thrust is now upon the validity of the sale

deed rather than on the right, title and interest of the petitioners and the cows and the buffaloes have taken a back seat.

If this is the background under which the prayer for amendment has been disallowed, the court below has committed no error.

In view of the above, no interference is warranted with the impugned order. Writ application is dismissed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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