

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2905 of 2013

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Raksha Prasad Sharma @ Raksha Singh, son of Late Rajendra Singh,
resident of Korji Mohammadpur, Police Station-Phulwarisharif, District-
Patna.

.... Petitioner/s

Versus

1. The State of Bihar Through Collector, Patna.
2. D.C.L.R., Patna Sadar, Collectorate Compound, Patna.
3. Additional District Magistrate (Revenue), Collectorate Compound,
Patna.
4. The C.O. Phulwarisharif Anchal, Phulwarisharif, P.S.-Phulwarisharif,
Distt-Patna.
5. Subhago Devi W/O Late Ram Chandra Ram.
6. Ramji Paswan S/O Late Naresh Paswan.
7. Maheshwear Prasad S/O Late Panchu Paswan all resident of village-
Korji, P.S.-Phulwarisharif, Distt-Patna.
8. Nagina Paswan.
9. Bhola Paswan.
10. Shankar Paswan.
11. Shyamu Paswan.
12. Most. Sakila Devi W/O Late Ram Lagan Ram.
13. Jethan Ram.
14. Vijay Ram@Babu Saheb.
15. Ram Ekbal Paswan son ofrespondent nos. 8 to 15 are residents of
village-Korji Mohammadpur, Police Station-Phulwarisharif, District-
Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Braj Nandan Singh

For the Respondent/s : Mr. Abhay Shankar Jha

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

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14-12-2015

Heard the learned counsel for the parties.

The learned counsel for the petitioner has pressed the interlocutory application (I.A. No. 7445 of 2013) which has been filed for substitution of the heirs and legal representatives of the deceased sole petitioner namely Raksha Prasad Sharma @ Raksha Singh.

The learned counsel for the contesting respondents has raised no objection to the prayer for substitution.

As such, the said interlocutory application is allowed and the heirs and legal representatives of the deceased sole petitioner as mentioned in the said interlocutory application are substituted in his place after expunging his name from the writ application. All the heirs and legal representatives of the deceased sole petitioner have appeared by filing Vakalatnama.

Calling in question the impugned order by which the learned court below has allowed the defendants to adduce evidence and has accepted certain documents produced by the defendants, the plaintiff has filed the present application under Article 227 of the Constitution of India.

It is manifest from the records that the suit has been filed in the year 2000. The written statement was filed on behalf



of the defendants and then it further appears from the order dated 21.06.2005 (Annexure-1) that a petition was filed by the intervener-defendant-respondents on 07.05.2005 praying to mark certain documents as exhibits on the basis that those documents were public documents. The learned court below had turned down the said prayer on the finding that the written statement was filed by the defendants on 18.07.2003, issues were settled on 07.01.2004 and thereafter the evidence of the plaintiff was concluded on 13.07.2004 and the evidence of the intervener-defendant-respondents was at the concluding stage. The learned court below had also concluded that the documents filed by the defendants at that stage could not be accepted in view of the provision of Order 13 Rule 1 C.P.C. The intervener-defendant-respondents filed C.R. No. 1873 of 2005 before this Court challenging the aforesaid order but by order dated 20.04.2006 (Annexure-2), the said revision application was dismissed for non-prosecution. It does not appear that the intervener-defendant-respondents took any steps thereafter. However, It transpires from the petition dated 20.10.2011 (Annexure-3) that the intervener-defendant-respondents again filed the petition before the learned court below for accepting certain documents in evidence on the ground that those

documents were earlier not available with the defendants. The plaintiff filed rejoinder to the said petition praying to reject the prayer. By the impugned order, the learned court below has allowed the prayer of the intervener-defendant-respondent and accepted the documents filed by them as exhibits in the suit.

From the impugned order itself it is transparent that the evidence of both the parties was over. This fact is also corroborated by the order dated 21.06.2005 (Annexure-1) wherein also the court has mentioned that the evidence of the plaintiff was closed and evidence of the intervener-defendant was on the verge of closure. By the impugned order dated 07.09.2012, the learned court below has, however, taken up the peculiar stand that as the stage in the suit has changed, therefore, the documents produced by the intervener-defendant-respondents can be accepted. The learned court below has further also not given any finding regarding the sufficient ground in view of the earlier order dated 21.06.2005. The learned court below further has also not granted any right to the plaintiff to rebut by leading evidence even when the evidence of the plaintiff was closed and fresh evidence was being accepted on behalf of the intervener-defendant. The order does not disclose conscious application of mind of the court to the facts

and the established principles of law and it transpires that the matter has been disposed of in causal and mechanical manner. This Court, therefore, is inclined to overturn the impugned order.

Accordingly, this writ application is allowed and the impugned order passed by the learned court below is quashed.

(V. Nath, J)

Devendra/-

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