

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10756 of 2014

Shri Kant Sharma @ Shri Kant Singh Son of Late Satynarayan Singh Resident of Village- Gopalpur, Police Station- Parasbigha, District- Jehanabad.

.... Petitioner/s

Versus

1. Parduman Sharma
2. Sahjanand Sharma
3. Ashok Sharma
4. Satish Sharma All Sons of Rameshwar Sharma All Permanent resident of Village Surdaspur Police Station- Ghoshi, District- Jehanabad.
5. Ramrati Devi Wife of Bawan Sharma
6. Manti Devi Wife of Ramjee Sharma Respondent no. 5 and 6 are permanent resident of Village- Shri Nagar Police Station- Chandi, District- Nalanda.
7. Awadhesh Sharma
8. Ramanuj Sharma
9. Ram Kripal sharma All Sons of Harihar Singh
10. Mano Devi Wife of Lochan Sharma, Village- Kormathu, Police Station- Bela, District- Gaya All permanent village- Samuchak, Police Station- Makhdumpur, District Jehanabad, All are at present residing at Village Gopalpur, Police Station- Parasbigha, District- Jahanabad.
11. Mahabir Singh @ Mahabir Sharma
12. Kamla Singh Both Sons of Late Pradeep Singh
13. Awadhesh Singh Son of Mahabir Singh
14. Udeswar Singh
15. Makhan Singh
16. Arun Singh All sons of Kamla Singh
17. Ramakant Singh
18. Sunil Singh All sons of Late Satya Narain Singh
19. Kunti Kuer wife of Late Ram Narayan Singh
20. Nilu
21. Sudhir All sons of Ram Narain Singh All resident of Village- Gopalganj, Police Station- Parasbigha, District- Jehanabad.
22. Gayanti Devi Wife of not known Resident of village- Jalalpur, Police Station-

Ghoshi, District- Jehanabad.

23. Yogendra Sharma

24. Damari Singh Both Son of Late Padarath Si ngh

25. Navlath Yadav

26. Ram Babu Yadav Both Sons of Narayan Yadav

27. Uday Sharma

28. Ramadhar Sharma Both Son of Ramchandra Sharma

29. Ambika Singh son of Rameshwar Singh All of Village- Gopalpur, Police
Station- Parasbigha, District- Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gajanan Arun

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 19-03-2015

Heard Mr. Gajanan Arun, the learned counsel appearing
on behalf of the petitioner.

Taking exceptions to the impugned order rejecting the
prayer for amendment in the written statement by the defendant-
petitioner, this application under Article 227 of the Constitution of
India has been filed.

The learned counsel for the petitioner has emphatically
submitted that the amendment which has been sought for is with
regard to the correction of the date of death of Kauleshwari Kuer as
16.11.1974 in place of 16.11.1971 as the same has been wrongly
typed in the written statement. It has also been pointed out by the

learned counsel for the petitioner that the fact that Kauleshwari Kuer died on 16.11.1974 has been accepted by the plaintiff during his deposition. The learned counsel for the petitioner has however accepted that the evidence of the plaintiff has been closed long back and the amendment has been sought on the basis of the deposition of the plaintiff.

After perusal of the impugned order and considering the submissions, it is limpid that the amendment has been sought for much after the trial has begun and much after the closure of the evidence of the plaintiffs. The deposition of the plaintiffs has been brought on record as annexure-1 wherein the plaintiff no. 1 has accepted that his maternal grand-mother executed a gift deed in the year 1972 and died in the year 1974. It has also been submitted by the learned counsel for the petitioner that subsequently the defendant had also stated in his deposition that the said Kauleshwari Kuer died in the year 1974.

In this view of the matter, this Court does not find that the present amendment is crucial for determination of the real issue in the suit. Further, the petitioner has also not disclosed the facts establishing his due diligence for not preferring the amendment earlier. The learned court below in the impugned order has held that the prayer for amendment has been belatedly made. Moreover, from

the statement made in the supplementary affidavit, it appears that the matter has now been posted for argument. Therefore, this Court is not inclined to interfere with the impugned order.

The writ application is, accordingly, dismissed with liberty to the petitioner to raise his objection to the impugned order, if required, in accordance with the provision of Section 105 C.P.C.

(V. Nath, J)

Devendra/-

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