

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2222 of 2013

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1. Ganga Devi W/O Sri Suresh Prasad Sinha.
 2. Suresh Prasad Sinha S/O Late Devaki Nandan Prasad.
 3. Ajit Kumar Sinha S/O Suresh Prasad Sinha all Resident Of Supaul Ward No. 9, P.S. Supaul, District Supaul.

.... Petitioner/s

Versus

1. Arun Priya Ranjan S/O Ramjee Prasad Gupta.
2. Ganga Devi W/O Dharmendra Kumar both Residents of Village Bairo Tola Balrampur, P.S. Supaul, District Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma, Adv.
Mr. Lakshmi Kant Tiwary, Adv.
Mr. Natraj Verma, Adv.

For the Respondent/s : Mr. Amrit Abhijat, Adv.
Mr. Piyush Parijat, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

4 07-12-2015 Heard Mr. Naresh Chandra Verma, the learned counsel for the petitioners and also the learned counsel for the respondents.

Questioning the legal acceptability of the impugned order by which the learned court below has rejected the petition filed by the petitioners for impleading heirs and legal representatives of the title holder Paro Devi as party-defendants in the suit, the present application under Article 227 of the Constitution of India has been filed.

The plaintiffs filed the suit for declaration of title and



possession over the suit land with further declaration of the sale deed of the defendant no. 2 as void and for direction to the defendant no. 1 to present the sale deed in favour of the plaintiff before the registering authority and accept its execution. It is the case of the plaintiffs that the defendant no. 1 as power of attorney holder of Paro Devi had executed the sale deed on 06.04.1994 in favour of the plaintiffs. However, the said document could not be registered and the present suit has been filed in the year 2003 for the aforesaid reliefs. It is apparent from the impugned order and also accepted by the learned counsel for the parties that the evidence of the parties in the suit has been complete and the matter has been posted for argument. At that stage, a petition was filed by the plaintiff-petitioners to implead the heirs and legal representatives of the deceased Paro Devi as party-defendants in the suit which has been turned down by the impugned order.

Mr. Naresh Chandra Verma, the learned counsel for the petitioners has submitted that the power of attorney earlier granted in favour of the defendant no. 1 was cancelled on 08.04.1994 by Paro Devi but the said fact was not within the knowledge of the plaintiff-petitioner. It has been further canvassed that in order to avoid future complication, the prayer for impleading the heirs and legal representatives of the deceased Paro

Devi was made before the learned court below which has wrongly rejected the said prayer.

The learned counsel for the respondents, however, has opposed the prayer as made by the petitioners and has submitted that the petition filed by the petitioners in the learned court below was only for the purpose of lingering the disposal of the suit as heirs and legal representatives of Paro Devi are not the necessary or proper parties in the facts and circumstances of the suit.

After perusal of the records and consideration of the submissions, it is manifest that the suit has been filed by the petitioners on the basis of the sale deeds said to have been executed by the defendant no. 1 respondent no. 1 on 06.04.1994. The learned counsel for the petitioners has also submitted that the power of attorney granted in favour of the defendant no. 1 was cancelled on 08.04.1994. The suit has been filed thereafter in the year 2003 for declaration of title over the suit land and also for specific performance of contract for direction to the defendant no. 1 to present the sale deed and accept its execution before the registering authority. In this fact situation, it is obvious that on the date of the execution of the sale deed dated 06.04.1994, the power of attorney granted in favour of the defendant no. 1 by Paro Devi

was surviving and was not cancelled by then. Thus, the learned court below has rightly come to the conclusion that the heirs and legal representatives of the deceased Paro Devi are neither necessary nor proper parties and also that the petition has been filed by the plaintiffs only for delaying the disposal of the suit.

This Court, therefore, does not find any illegality or error of jurisdiction in the impugned order. The writ application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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