

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17462 of 2012

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1. Bhadai Yadav @ Bhadai Choudhary
2. Sadai Yadav
3. Akloo Yadav, all Sons Of Late Inar Yadav Resident Of Village Sareya Hussi, Ward No. 2, P.S. Gopalganj, District Gopalganj

.... Petitioner/s

Versus

1. Suraj Yadav Son Of Late Raghunath Rawat Resident Of Village Sareya Hussi, Ward No. 3, P.O. & P.S. Gopalganj, District Gopalganj
2. Parma Yadav Son Of Late Raghunath Rawat Resident Of Village Sareya Hussi, Ward No. 3, P.O. & P.S. Gopalganj, District Gopalganj
3. Chandrama Prasad Yadav Son Of Late Ramdhari Rawat Resident Of Village Sareya Hussi, Ward No. 3, P.O. & P.S. Gopalganj, District Gopalganj
4. Most. Kunti Devi Wife Of Late Sheo Pujan Rawat Resident Of Village Sareya Hussi, Ward No. 3, P.O. & P.S. Gopalganj, District Gopalganj
5. Kanhaiya Rawat Son Of Late Sheo Pujan Rawat Resident Of Village Sareya Hussi, Ward No. 3, P.O. & P.S. Gopalganj, District Gopalganj
6. Juthan Rawat Son Of Late Sheo Pujan Rawat Resident Of Village Sareya Hussi, Ward No. 3, P.O. & P.S. Gopalganj, District Gopalganj
7. Fekan Rawat Son Of Late Sheo Pujan Rawat Resident Of Village Sareya Hussi, Ward No. 3, P.O. & P.S. Gopalganj, District Gopalganj
8. Most. Janaki Kuar Wife Of Late Ram Pujan Rawat Resident Of Village Sareya Hussi, Ward No. 3, P.O. & P.S. Gopalganj, District Gopalganj
9. Ram Narayan Rawat Son Of Late Lakhman Rawat Resident Of Village Sareya Hussi, Ward No. 3, P.O. & P.S. Gopalganj, District Gopalganj
10. Rajeev Kumar Singh Son Of Bir Bahadur Singh Resident Of Village Sareya Hussi, Ward No. 3, P.O. & P.S. Gopalganj, District Gopalganj
11. Sanjay Kumar Singh Son Of Late Sheo Pujan Singh Resident Of Village Sareya Hussi, Ward No. 3, P.O. & P.S. Gopalganj, District Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Prasad -Advocate

For the Respondent/s : Mr. Jitendra Kr. Srivastava -Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 16-12-2015 Heard learned counsel for the petitioners as well as

learned counsel for the respondents.

2. Though plaint has not been made an annexure of

the instant petition, the same has been filed by the learned counsel

on a query in order to see the previous pleading in consonance with the proposed pleading having sought for under para-13 (ka). After going through the relevant paragraphs of the plaint in consonance with the proposed amendment, it is evident that plaintiff is intending to flash inconsistent plea than whatever pleaded in the plaint which is found contrary to the basic foundation attracting amendment of the pleading in terms of Order VI Rule 17 of the C.P.C.

3. Learned counsel for the petitioners submits that the aforesaid paragraphs has purposely been sought for in the background of admitting two sale-deeds, later on, having produced on behalf of defendant. The order dated 02.02.2010 (Annexure-1) has been gone through wherefrom it is evident that plaintiff had already been given an opportunity to rebut which, he should have taken recourse of.

4. With the aforesaid finding, the instant petition is disposed of.

5. The stay granted vide order dated 28.02.2013 is, hereby, vacated.

(Aditya Kumar Trivedi, J)

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