

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18343 of 2012

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1. SAMBHU NATH JHA
2. PASUPATI NATH JHA
3. TRILOK NATH JHA
PETITIONER NO.1 TO 3 ARE SONS OF LATE CHANDRA SHEKAR JHA
4. MOST. RAJ KUMARI DEVI WIFE OF LATE UMESH JHA
5. CHANDAN JHA SON OF LATE UMESH JHA
6. GOBIND JHA SON OF LATE UMESH JHA
ALL RESIDENT OF VILLAGE- PATAHI, MAHMADPUR, P.O.- PATAHI, P.S. SADAR, DISTRICT- MUZAFFARPUR.
.... PETITIONER/S

VERSUS

1. MOST. SUBHADRA DEVI W/O LATE RAJ KISHORE JHA
2. SANJEEV KUMAR JHA.
3. NAVIN KUMAR JHA.
BOTH SONS OF LATE RAJ KISHORE JHA.
4. BIMAL KISHORE JHA SON OF LATE KEDAR NATH JHA
5. BRAJ KISHOR JHA SON OF LATE HARIDWAR JHA
6. KAMAL KISHORE JHA SON OF LATE BISHWANATH JHA
7. CHANDRA KANT JHA SON OF LATE BISHWANATH JHA
ALL RESIDENT OF VILLAGE- PATAHI, MAHMADPUR, P.O.- PATAHI, P.S. SADAR, DISTRICT- MUZAFFARPUR.
.... RESPONDENT/S

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Appearance:

For the Petitioner/s : Mr. Surendra Kishore Thakur, Adv.
For the Respondent/s : Mr. Durga Nand Jha, Adv.
Mr. Abhay Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

7 17-12-2015 Gone through the order as well as heard learned counsel for the petitioners as well as learned counsel for the respondents.

Relief has not been changed, pleadings have not been altered. The change so sought for relates to source. At an earlier occasion, as the plaint speaks plaintiff claimed the land under dispute on the basis of sale deed, and as the copy of the sale deed

was not annexed with the plaint in terms of Order-VII Rule-14 of the CPC, therefore, an objection was raised on behalf of petitioners/defendants whereupon the court ordered so, attracted an application by way of amendment wherein at the relevant stages of the plaint so incorporated therein, instead of sale deed the amendment has been sought for relating to “executed permanent lease deed” which the learned lower court has allowed by the order impugned hence this petition. By such amendment, I do not see the nature of the suit has been changed. Though, the order impugned suggest that the prayer has been allowed at a cost of Rs.500/- but petitioners/defendants have not been given an opportunity to file additional W.S. on that very score which the learned lower court should have granted.

Giving aforesaid liberty, instant petition is rejected.

Additional W.S. must be filed within two months from today.

(Aditya Kumar Trivedi, J.)

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