

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5386 of 2013

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Ram Janam Rai S/O Late Jhumlal Rai Resident Of Village- Ramjee Chak
Digha, P.S- Digha, District- Patna

.... Petitioner/s

Versus

1. Sunaina Devi.
2. Santosh Kumar.
3. Kanhai Kumar.
4. Raju Kumar all S/O Late Sahdeo Mahton.
5. Geeta Kumari D/O Late Sahdeo Mahton.
6. Lal Babu Mahton S/O late Harihar Mahton.
7. Shankar Mahton.
8. Suresh Mahton.
9. Umesh Mahton.
10. Ram Babu Mahton all S/O Ram Chandra Mahton.
11. Anil Kumar S/O Sahdoe Mahton.
12. Dewanti Devi W/O Late Ram Ratan Mahton.
13. Om Prakash Mahton S/O Late Sheo Nandan Mahto.
14. Sarwan Kumar Mahton S/O Ram Lakhan Mahto.
15. Pujan Mahton.
16. Jagamani Mahton.
17. Shyam Mahton all S/O Ram Lakhan Mahton.
18. Ram Bisun Mahton S/O Late Raghu Mahton.
19. Arun Kumar S/O Ram Bishun Mahton all Resident Of Mohalla-
Nasariganj, Sikandarpur, P.S- Danapur, District- Patna.
20. The Secretary, Sri Nalini Ranjan Prasad Sinha S/O Late Brahmanand
Prasad Sinha, The Secretary Of Magadh Sahkari Grih Nirman Samittee
Ltd., Residing At Present Lalit Nagar, P.O- Bataganj, P.S- Danapur,
District- Patna.
21. Arjun Mahton.
22. Bijay Mahton.
23. Dina Nath Mahton.
24. Munna Mahton all S/O Sri Kishun Mahton Resident of Mohalla-
Nasariganj, Sikandarpur, P.S- Danapur, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

4 29-09-2015

Heard Mr. Dronacharya, the learned counsel appearing on behalf of the petitioner and the learned counsel appearing on behalf of the respondent nos. 2 and 16. With the consent of the parties, the present application has been heard on merit along with the interlocutory application (I.A. No. 6962 of 2015) and is being disposed of at this stage.

At the out set, it would be pertinent to take into notice that the petitioner had earlier approached this Court in C.W.J.C. No. 18162 of 2011 (Annexure-2) assailing the order by which the learned court below has refused the prayer for amendment in the written statement. While disposing of the said writ application, this Court after taking into notice the earlier order passed by this Court in C.W.J.C. No. 19944 of 2011 has directed the learned court below to proceed for disposal of the suit without giving any undue adjournment to either for the parties.

Calling in question the impugned order by which the learned court below has declined the prayer made by the petitioner in the petition dated 15.01.2013 for taking certain documents in

evidence, the present application under Article 227 of the Constitution of India has been filed.

Mr. Dronacharya, the learned counsel for the petitioner has submitted that there is no bar upon the court in accepting the documents even after the stage of Order 13 Rule 1 C.P.C. has crossed and has relied upon a judgment of this Court in the case of **Dukhan Rai Vs. Mahendra Raj 2007 (3) P.L.J.R. 8**. It has further been canvassed that the petitioner is a purchaser of the suit property from some of the co-sharers i.e. plaintiffs and the defendants in the year 1986 during the pendency of the suit and therefore he is entitled to be heard after grant of adequate opportunity to adduce evidence. It has also been submitted that the documents sought to be adduced in evidence relating to criminal proceeding, however, has no bearing upon the contested right, title and interest over the suit land in the suit.

The learned counsel appearing for the respondent no. 2 and 16 has submitted that the petitioner by filing petition seeking to adduce some documents in evidence intends only to delay the disposal of the suit in spite of the directions of this Court and, therefore, the learned court below has rightly refused the prayer. The learned counsel has also submitted that these documents are only the reports which were submitted by revenue Karmchari and

also the rent receipts which had no direct bearing on the issue of title arising in the suit.

After careful consideration of the materials on record and the submissions, it is manifest that the suit has been filed in the year 1972 for partition. The learned court below in the impugned order has mentioned in detail the documents which has been sought to be adduced in evidence by the petitioner and from the perusal of the same, it appears that one of the documents relates to a criminal case with regard to which the learned counsel for the petitioner has submitted that he is not pursuing the prayer. The other documents mentioned in serial no. II to V are the reports submitted in the mutation matters before the circle officer and the documents at serial no. 6 and 7 are the rent receipts and challan in the name of a co operative society. It has been mentioned in the impugned order that all the documents are the post litem documents which have come in existence after filing of the suit. This fact has not been disputed by the learned counsel for the petitioner. It is also pellucid that the petitioner is a pendent lite purchaser and thus his right, according to law, shall be governed by the decision in the suit. As all the documents are post litem documents, this Court is of the opinion that there is no error of jurisdiction or irregularity in the impugned order in rejecting the

prayer of the petitioner.

For the aforesaid reasons and discussions, this Court does not find merit in this writ application, which is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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