

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10273 of 2013

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1. Shyam Bihari Mahto Son of late Mahadeo Mahto
2. Ram Shankar Mahto Son of late Mahadeo Mahto Both are resident of Village-
Meghaul, Tola Malmalia, P.S. Khodawandpur, District Begusarai..... Petitioners

Versus

1. Sitaram Mahto Son Of Late Ramjiwan Mahto Resident Of Village HarraKh
Nayatola, Satsang Mohalla, P.O. Suhirdnagar, District Begusarai
2. Chandradeo Mahto Son Of Late Ramjiwan Mahto Resident Of Village Meghaul
Tola Malmalia, P.S. Khodawandpur, District Begusarai
3. Laxmi Mahto Son Of Late Ramjiwan Mahto Resident Of Village Meghaul Tola
Malmalia, P.S. Khodawandpur, District Begusarai
4. Hare Krishna Mahto Son Of Late Ramjiwan Mahto Resident Of Village Meghaul
Tola Malmalia, P.S. Khodawandpur, District Begusarai
5. Ram Naresh Mahto Son Of Late Ramjiwan Mahto Resident Of Village-
Meghaul, P.S.- Khodhawandpur, District- Begusarai Respondents

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Appearance :

For the Petitioner/s : Mr. null

For the Respondent/s : Mr. null

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 08-11-2016

Heard Mr. Bajrangi Lal, learned counsel appearing for
the petitioners.

By the impugned order the learned court below has
rejected the prayer made by the plaintiff for amendment in the plaint
by inserting boundaries therein with regard to the Survey Plot Number
and the boundaries of Schedule-II of the plaint.

From the averments made in the plaint as well as
materials on record, it is apparent that the T.S.No. 28/2007 filed by
the plaintiff-petitioner was decreed by the judgment and decree dated
27.10.2010. The petition was filed by the plaintiff-petitioner for

amendment on the basis of which Miscellaneous Case No. 05/2012 was instituted. However, the said miscellaneous case was rejected on the ground that the appeal against the judgment and decree passed in the suit was pending. It transpires thereafter that after filing of the present application the petitioner also filed a petition before the appellate court below praying for the amendment in the plaint. However, the appellate court below by order dated 01.10.2013 (Annexure-7 to the supplementary affidavit) has rejected the prayer on the ground that the C. Revision No. 10273/2013 was pending before this Court. It is pertinent to note here that the C.W.J.C.No.10273/2013 has been wrongly mentioned as C.Revision No.10273/2013 in the order passed by the appellate court.

After considering the submissions, this Court does not find that the court below has committed any error of jurisdiction or illegality in passing the impugned order dated 07.02.2013. This Court, therefore, declines to interdict the impugned order under Article 227 of the Constitution of India. It is, however, observed that the petitioner shall be at liberty to seek redressal of his grievances in accordance with law.

The application is, accordingly, dismissed.

(V. Nath, J)

Nitesh/-

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