

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.52 of 2016

1.Subodh Kumar s/o Shiv Shankar Sah.
2. Baikhunthi Devi @ Sumitra Devi w/o Shiv Shankar Sah d/o Late Ram Surat Sah,
r/o village Bhadwar P.S. Chandi District Bhojpur.

.... Plaintiff Petitioner/s

Versus

1.Raj Kumari Kunwar, w/o late Sri Bhagwan Sah
2.Bigan Sah s/o Late Sri Bhagwan Sah
3.Pawan Kumar Sah, s/o Late Sri Bhawan Sah
4.Sugi Lal Sah
5. Ram Naresh Sah, both s/o Late Devchand Sah.
6.Nathuna Sah @ Bijay Sah s/o Bijay Sah s/o Ram Pravesh Sah
7.Ganga Sah s/o Sugilal Sah.
8.Nankhi Kuwnar w/o Ajay Sah
9.Satyendra Sah
10.Anil Sah
11.Millu Sah, all 9 to 11 s/o Late Ramnaresh Sah.
Resident of Village Banouli, Post Chasi, P.S. Narayanpur, District Bhojpur.

.... Defendant Respondent/s

Appearance :

For the Petitioner/s : Mr. Rishikesh Ojha, Adv
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 19-04-2016

I.A. No. 2749 of 2016

Heard learned counsel for the petitioners.

In view of the averments made in the interlocutory application (I.A. No. 2749 of 2016) and after considering the submissions the limitation in filing this writ application is condoned.

Civil Revision No.52 of 2016

Heard learned counsel for the petitioners on the merits of this revision application.



The facts as appearing from the materials on record demonstrates that the petitioner no. 2 Baikhunthi Devi, filed T.S. No. 469 of 1999 for declaration of her status as daughter of Ram Surat Sah and as such his only legal heir and further for partition of her share from the suit property. It further transpires that during the pendency of the suit a compromise petition was filed between the parties after settling the dispute outside the court. The order dated 05.11.2004 (as annexed with the revision application) shows that the plaintiff Baikhunthi Devi of the suit was examined on that day in the court besides other witnesses including the defendants and thereafter the suit was disposed of in terms of the compromise as the parties to the suit accepted the factum of compromise. The compromise decree accordingly was prepared with the compromise petition being part of the said decree. It transpires thereafter that a petition was filed by the petitioner no. 1 Subodh Kumar along with the plaintiff Baikhunthi Devi upon which the Miscellaneous Case No. 5 of 2015 was registered. The prayer made in the said petition was for setting aside the compromise decree on the allegations of fraud and grant of opportunity to the petitioners to pursue the suit on merits on the basis of evidence.

After hearing the parties, the learned court below has dismissed the miscellaneous case finding no prima facie case to



admit the case. During the course of submissions the fact has not been denied that the sole plaintiff Baikhunthi Devi was examined in the suit on 05.11.2014 on the factum of compromise and thereafter the learned court below taking into consideration the acceptance of compromise by the plaintiff as well as the defendant in their depositions disposed of the suit in terms of compromise decree. It is also evident that the said compromise decree was passed in the year 2004 , but the present petition has been filed in the year 2015 and there is no explanation at all for this inordinate delay when the plaintiff-petitioner Baikhunthi Devi had herself deposed in the suit which is apparent from the order dated 05.11.2004 passed in the suit as averred in the revision application.

Considering the entire facts and circumstances of the case, this Court comes to the conclusion that the Miscellaneous Case No. 05 of 2015 was definitely a frivolous litigation initiated by the petitioners and learned court below has committed no error of jurisdiction in dismissing the said case.

This revision application is, accordingly, dismissed.

(V. Nath, J)

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CAV DATE	
Uploading Date	
Transmission Date	