

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10634 of 2014

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1. Krishan Kumar @ Sah son of Nageshwar Sah.

2. Manikant Kumar @ Sah son of Nageshwar Sah Both are Residents of Village- Mahesua Tola Chausar, P.o. Chausaur, P.S. AND District- Madhepura

.... Petitioner/s

Versus

Bilash Mehta Son of late Phagu Mehta Residents of Village- Chausaur, P.O. Chausaur, P.S. AND District- Madhepur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Prasad Verma, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 05-07-2016

Heard learned counsel for the petitioners.

The legal sustainability of the impugned order by which the prayer for amendment in the plaint as made by the plaintiff has been turned down, the present application under Article 227 of the Constitution of India has been filed.

The plaintiff filed the suit for declaration of his title and further for declaration that the plaintiff had paid entire consideration money to the defendant for purchase the suit land and the direction has been sought against the defendant for handing over the chirkut so

that the plaintiff may be able to obtain the registered sale deed from the registration office.

It is however, the case of the plaintiff that during the pendency of the suit the defendant by registered cancellation deed has cancelled the sale deed which he has executed in favour of the plaintiff after accepting the consideration money. The prayer, therefore, was made by the plaintiff before the learned court below for incorporating the relief against the said cancellation deed also. By the impugned order, the learned court below has rejected the prayer.

After considering the submissions as made by the petitioner and from the perusal of the of the impugned order, it does not appear that the plaintiff will suffer any prejudice if the said relief sought to be incorporated by way of amendment is not included in the plaint. It is manifest that the plaintiff has made his claim on the basis of the sale deed already executed in his favour after asserting the payment of full consideration money and the direction has been sought for obtaining the chircut from the defendant. In this backdrop, even if the defendant has executed a cancellation deed the same may not affect the right, title and interest of the plaintiff. Even otherwise also a deed of cancellation of the registered sale deed generally has got no legal recognition. This Court thus does not find any illegality or error of

jurisdiction in the impugned order turning down the prayer of the plaintiff for amendment.

The present application is accordingly dismissed.

(V. Nath, J)

Devendra/-

AFR/NAFR	
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