

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14132 of 2014

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1.Mahesh Prasad

2.Nresh Prasad.

3.dinesh Prasad.

All residents of village Sohagpur, Police Station Hathua, District Gopalganj.

....defendant/Petitioner/s

Versus

Bishwanath Patel.

2.Kisnath Patel.

3.Paras Patel.

Nos. 1 to 3 are sons of Birjhan Patel.

....Plaintiff/Respondent/s

4.Suresh Prasad, son of Jaagdish Prasad.

5.Shanti Devi w/o late Ram Bilash Prasad.

6.Santosh Kumar

7.Rabindra Kumar

8.Bipin Kumar

Sons of late Ram Bilash Pd.

9.Pushpa , d/o Late Ram Bilash Prasad.

10.Ajay Kumar

11.Munman Prasad

12.Rajan Kumar

All residents of village Sohagpur, P.S. Hathwa, District Gopalganj.

.....Defendants/Respondents.

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 17-10-2016



Heard Mr. Dhananjay Kumar, learned counsel appearing on behalf of the petitioners.

The legal acceptability of the impugned order by which the learned court below has turned down the prayer of the defendant questioning the valuation of the suit has been challenged in the present application under Article 227 of the Constitution of India.

The learned counsel for the petitioners submits that the learned court below has committed error of jurisdiction in not considering the fact that according to the notification by the State Government the valuation of the suit property has been fixed at much higher rate and the value of the suit as given by the plaintiff is on the lower scale. Learned counsel has placed various provisions of the Court Fees Act in support of his submission.

After considering the submissions and perusal of the impugned order, it is evident that such objection has been raised by the defendants when the suit has been posted for argument. There is no explanation on behalf of the defendants as to why such objection regarding the valuation was not raised at the earlier stage or even soon after filing of written statement. Learned court below has made observations regarding the conduct of the defendants in not raising objection at the stage when the suit has been posted for argument. Even otherwise also the suit having been filed for declaration along



with the consequential relief the provision of Section 7(iv)(c) of the Court Fees Act would be attracted according to which the market value of the suit property becomes immaterial. This Court, therefore, is not persuaded to interdict the impugned order.

The application is, accordingly, dismissed.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
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