

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15310 of 2014

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1. Munshi Singh Son of Late Khobhari Singh, Resident of Village - Sondhi, P.O.-
Sondhi, P.S.- Mohania, District- Kaimur (Bhabua).

.... Petitioner/s

Versus

1. Jai Ram Singh Son of Late Khobhari Singh
2. Maharaji Devi Wife of Jai Ram Singh
3. Nageshara Kuer Wife of Late Khobhari Singh
4. Binda Devi D/o Late Ra Bachan Singh Respondent No. 1 - 4 are resident of
village- Sondhi, P.S.- Mohania, District- Kaimur (Bhabhua).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Ram, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 27-10-2016

Heard learned counsel for the petitioner and learned
counsel for the Opposite Party.

By the impugned order the learned court below has
turned down the prayer on behalf of the plaintiff praying for
amendment in the plaint.

After considering the submissions and perusal of the
materials on record as well as the impugned order, it is evident that
the suit was filed by the plaintiff in the year 2006. The defendant no.

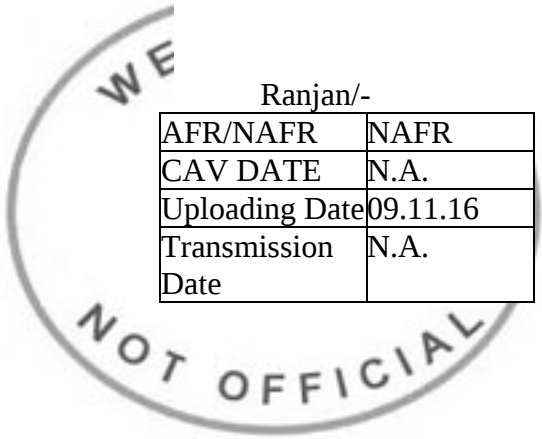


1 appeared in the suit in the year 2007 and filed his written statement, wherein, in paragraph no. 10 the categorical statement of the gift deed executed in his favour by Bindu Devi was disclosed. Further the learned counsel for the petitioner has also accepted that the plaintiff, who was examined as PW-1 on 19.12.2009 in his deposition in paragraph no. 19 had also disclosed the knowledge about the gift deed. However, the amendment petition was filed on 20.05.2014 by the plaintiff seeking to incorporate the relief(s) against the gift deed, the sale deed executed during the pendency of the suit as well as to add some persons as party in the suit. The learned court below has come to the conclusion that the plaintiff had the knowledge of the said gift deed but even after examining all the witnesses on his behalf he has omitted to seek any relief with regard to the said document. It has also been found that the amendment as sought for by the plaintiff could not have been allowed in accordance with law in view of the proviso to order 6 Rule 17 C.P.C as introduced by amendment. There is no dispute that the trial has commenced in the suit and the element of due diligence on the part of the plaintiff-petitioner is clearly absent.

This Court has not been persuaded to find any illegality justifying interference under Article 227 of the Constitution of India.

This application is, accordingly, dismissed.

(V. Nath, J)



Ranjan/-

AFR/NAFR	NAFR
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