

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15414 of 2014

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1. Nawal Kishore Prasad S/o Gauri Shankar Prasad
 2. Arun Kumar
 3. Deepak Kumar Both S/o Nawal Kishore Prasad All Resident of Village Karamawa, P.O. Karamawa, P.S. Majhauria, District West Champaran.

.... Petitioner/s

Versus

1. Sudhist Prasad Gupta
2. Mohan Kumar Gupta
3. Manoj Kumar Gupta All S/o Raja Ram Sah All Resident of Village Karamawa, P.O. Karamawa, P.S. Majhauria, District West Champaran.
4. Smt. Manju Devi W/o Uday Shankar Resident of Village Karamawa, P.O. Karamawa, P.S. Majhauria, District West Champaran.

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 26-10-2016

Heard learned counsel for the petitioners.

The legal sustainability of the impugned by which the learned court below has rejected the prayer of the defendant-petitioners for amendment in the written statement has been questioned in this application under Article 227 of the Constitution of India.

On behalf of the petitioners, the fact has not been disputed that the plaintiffs' evidence has been completed in the suit and the defendants evidence has commenced. At that stage, the defendants



came out with the prayer for amendment praying to change date of oral partition from 1998 as earlier stated to 1992. The plea of the defendants was that it was the mistake of the typist due to which the wrong date of oral partition came to be mentioned in the written statement.

After considering the submissions on behalf of the petitioners and the perusal of the materials on record including the impugned order, this Court finds that the defendant-petitioners have cross examined the witnesses on behalf of the plaintiffs but have not disclosed the fact that the cross examination was done on the basis of their case of oral partition in the year 1998 or 1992. Specious plea that the year 1992 has been typed in the pleading by mistake of the typist has rightly been not accepted by the learned court below. This Court thus has not been persuaded to invoke the jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.

The application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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