

IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.294 of 2014

- =====
1. BiKky Kumar Seth
 2. Rupesh Kumar Seth Both sons of Late Kamta Prasad
 3. Sangita Devi D/O Late Kamta Prasad All resident of village- Silao, P.S. and Distt. Nalanda, at present R/O Mohalla- Kiranighat, P.S. and District- Gaya.
 4. Satyendra Singh S/O Late Raj Kumar Singh R/O Village- Nepura, P.S.- Silao, District- Nalanda.

.... Appellants

Versus

1. Arun Kumar
2. Mohan Kumar
3. Ajay Kumar
4. Sanjay Kumar All are sons of Late Kesho Prasad null
5. Arjun Prasad
6. Sacchidanand
7. Murli Manohar
8. Birendra Prasad
9. Satyendra Prasad All are sons of Late Damodar Prasad All are resident of village+ P.O.- Silao, District- Nalanda.
10. Bishambhar
11. Sant Sharan
12. Ganpat Sharan
13. Jagat Sharan All are sons of Late Radhey Sharan All are resident of village and P.S. and P.O. Silao District- Nalanda, at Present R/O Mohalla- Bharawpar Town, Biharshariff, P.S.- Laheri, Distt.- Nalanda.
14. Madhuri Devi D/O Late Sarjug Ram R/O Village and P.O. and P.S. Silao, District- Nalanda.
15. Amresh Yadav Son of Ramnath Yadav
16. Surendra Yadav Son of Mundrika Yadav
17. Ramratan Yadav Son of Harif Yadav
18. Jai Prakash Yadav Son of Bharat Yadav
19. Arneshwar Yadav Son of Ram Swarath Yadav
20. Akhileshwar Yadav Son of Ram Swarath Yadav All are Resident of Village- Dumri, P.O.+ P.S.- Silao, District.- Nalanda.

.... Respondents

=====

Appearance :

For the Appellant/s : Mr. Satya Ranjan Sinha

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

appearing for the appellants, in this appeal.

The present appellants in this second appeal were not parties in the suit or in the appeal against the decree passed in the suit. However, I.A. No. 8372 of 2014 has been filed under Chapter VI Rule 5 of the Patna High Court Rules, for seeking permission/leave to the appellants to pursue this appeal as appellants. It is the case of the appellants as apparent from the averments made in the Interlocutory Application that the appellant Nos. 1, 2 and 3 claim to be descendents of common ancestor along with the plaintiffs and defendants of the suit, and appellant No. 4 claim to have purchased the part of the suit property from appellant Nos. 1, 2 and 3. It is however not the case of the appellants that they have derived their interest in the suit property from any of the parties to the suit or the appeal. Thus from the pleadings and submission on behalf of the appellants it is manifest that the appellants are pursuing their own cause of action with regard to the suit property.

The provision of Chapter VI Rule 5 envisages the circumstances when a decree or order can be assailed in appeal before the High Court by a person who is not a party to the said decree or order. The appellants do not come in any of the circumstances. This Court therefore does not find that the appellants are entitled to pursue this appeal against the impugned judgment and decree. The Interlocutory Application (I.A. No. 8372 of 2014) filed by the appellants is, accordingly, rejected. In consequence, this appeal is also dismissed in view of the absence of *locus standi* of the appellants to maintain this appeal. The appellants shall, however, be

at liberty to pursue the remedy available to them in accordance with law.

(V. Nath, J.)

Snkumar/-

U			
---	--	--	--

