

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12021 of 2014

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Rajeshwar Mahto son of Late Bhoj Mahto resident of village - Majhauli, Police Station - Bairia, District - West Champaran Petitioner

Versus

1. Mostt. Munari Khatoon wife of Late Kitab Mian
2. Kamruddin Mian son of Late Kitab Mian
3. Md. Sharif Mian @ Dhodha Mian son of Late Kitab Mian All are resident of village - Majhauli, Post office - Ojhawalia, Police Station - Bairia, District - West Champaran
4. Najmuna Khatoon D/o Late Kitab Mian Wife of Ali Raj Mian resident of village + Post Office - Tikulia, Police Station - Chanpatia, District - West Champaran
5. Nabeya Khatoon D/o Late Kitab Mian Wife of Hukum Mian resident of village - Sathhidwa, Post office + Police Station - Majhaulia, District - West Champaran
6. Nabijan Khatoon D/o Late Kitab Mian, wife of Khurshid Mian resident of village - Maldiha, Police Station + Post office - Harsidhi, District - East Champaran
7. Noorjahan Khatoon D/o Late Kitab Mian, wife of Noor Hassan resident of village - Ahir Toli, Post Office + Police Station - Harsidhi, District - East Champaran
8. Nasudan Khatoon D/o Late Kitab Mian, Wife of Firoj Mian resident of village - Bariyarwa, Post office + Police Station - Ram Nagar, District - West Champaran
9. Mohan Mahto son of Late Satyanarain Mahto resident of Mohalla - Ganj No. 2, pOst Office + Police Station - Bettiah Town, District - West Champaran

.....Respondents

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Appearance :

For the Petitioner/s : Mr. Shiv Kumar Dwivedy, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 16-08-2016

V.Nath, J.

Heard Mr. Dwivedy, learned counsel appearing for the plaintiff-petitioner.

The present application has been filed assailing the impugned order by which the learned court below has accepted the additional written statement-cum-counter claim filed on behalf of the defendant no.1 in the suit, granting liberty to the plaintiff-petitioner to file written statement with regard to the counter claim filed by the defendant no.1.

From the materials available on record and after considering the submissions, it is apparent that the prayer of the plaintiff for amendment for incorporating the relief against the sale deed dated 01.11.1974 executed in favour of the defendant no.1 by the defendant no.2 has been allowed on 17.05.2010. The defendant no.1, thereafter, filed his written statement containing also a counter claim on 08.06.2010. By the impugned order, the learned court below has found that the counter claim is not barred by limitation and has accepted the additional written statement as well as the counter claim.

The right to file an additional written statement has arisen in the present case manifestly when the plaintiff has sought the amendment in the plaint. In view of the provision of Order 8 Rule 9 C.P.C., this Court does not find that the learned court below has committed illegality or material irregularity in passing the impugned order. This Court, therefore, declines to invoke the jurisdiction under Article 227 of the Constitution of India for interfering in the impugned order.

The application is, accordingly, dismissed.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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