

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13987 of 2014

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Ram Kishun Mahton son fo Late Mahabir Mahton, resident of Mouza Sri Kishun Tola, Rahmataliganj, Police Station Kajra, District Lakhisarai.

.... Petitioner/s

Versus

1.Bhim Mahton son of Rajo Mahton, resident of village Rahmataliganj, Police Station Kajra, District Lakhisarai.

....Defendant, 1st Party/Respondent 1st Set.

2. Nav Ratan Bharti, s/o Sri Pradip Kumar, resident of Village Bikrampur, Police Station Kajra (Surajgarha), District Lakhisarai.

.....Defendant IInd Party/Respondent IInd Set.

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Appearance :

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

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 29-09-2016

Heard learned counsel for the petitioner.

The plaintiff is the petitioner in this application and has challenged the order passed in the suit rejecting the prayer for amendment in the plaint.

From the perusal of the materials on record and considering the submissions, it is manifest that the plaintiff has filed the suit for declaration of right, title and interest over the suit land and for the declaration that the sale deed of the year 2007 is not binding on the plaintiff.

From the impugned order, it is clear that the defendants

have completed their evidence and all the witnesses of the defendants have been cross-examined by the plaintiff. The plaintiff did not explain the fact as to why the amendment was not prayed at that stage before the defendants started the evidence.

The specious plea on behalf of the plaintiff is that he got the knowledge of the year of death of Sohagi Devi only much later but there is no explanation to the fact as to on what basis the plaintiff examined all his witnesses and cross-examined the witnesses of the defendants. In this backdrop, the prayer for amendment has rightly been rejected by the learned court below as the amendment is in the nature which would cause prejudice to the defendants, who have completed their evidence. The plaintiff has also not stated the facts establishing due diligence requiring the plaintiff to inquire about the fact of death of Sohagi Devi earlier. This Court, therefore, is not inclined to interfere with the impugned order invoking its jurisdiction under Article 227 of the Constitution of India.

The application is, accordingly, dismissed.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
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