

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.1472 of 2008

1.Arjun Singh son of late Kanahai Singh, resident of village + P.O Tarar P.s. Daudnagar, District Aurangabad.

2.Mahendra Singh son of Ram Gati Singh resident of Mohalla Maulabagh New Area, DAudnagar , P.O. + P.S. Daudnagar, District Aurangabad.

...Defendants. Petitioner/s

Versus

Baliram Sao.

2.Ram Sao.

3.Jai Ram Sao,

All sons are Prem Chand Sao.

4.Mostt. Chandmuni Kuwar wife of late Krishna Sao, All 1 to 4 are residents of village Chulhatta, Nauhatta, District Rohtas.

5.Nawal Sao.

6.Suresh Sao.

Both sons of late Mathura Sao.

Both Permanent resident of village + P.O+P.S. Obra, District Aurangabad, at present residing at village + P.O. Tarar, P.S. Daudnagar, District Aurangabad.Plaintiff.../ Opposite Party 1st Set.

7. Raju Sao.

8. Sri Ram Sao

9.Ashok Sao

10.Ramdahin Prasad, s/o Ram Lakhnan Prasad.

All 7 to 9 are sons of Sri Ramdahin Prasad. All resident of Ganga Misthan Bhandar Mahavir Chowk P.O. + P.S. Chas District Bokaro(Jharkhand).

Defendant/Opposite Party 2nd set.

11.Smt. Kalawati Devi wife if Sri Bishnu Sao, resident of village + P.O. Tarar P.s. Daudnagar, District Aurangabad.

.....Defendant/Opposite party 3rd Set.

Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh, Adv
Mrs. Anita Raghavendra, Adv
Mr. Abhishek, Adv
For the Respondent/s : Mr. Anil Kumar Singh No. 6, Adv

CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

3 01-04-2016

Heard Mr. Jitendra Prasad Singh, learned counsel appearing on behalf of the petitioners and Mr. Anil Kumar Singh No. 6, learned counsel, who has submitted that he represents all the opposite parties.

2. By the impugned order the learned court below has rejected the petition dated 07.08.2007 filed on behalf of the defendants challenging the pecuniary jurisdiction of the court to entertain the suit.

3. The fact is not in dispute that the Tile Suit No. 84 of 2005 was filed by the plaintiff-opposite party 1st Set for declaration of their title and possession over the suit land as mentioned in Schedule-A and also for declaration that the four sale deeds dated 11.09.1995 said to have been executed by late Sabitri Devi in favour of the defendant-petitioner-opposite party third set were illegal and void. It has been stated in the present revision application that the total valuation of the four sale deeds in question is Rs. 1 lakh. As the plaintiffs had valued the suit at Rs. 3000/- only, the petition was filed by the defendant-petitioners on 07.08.2007 questioning the pecuniary jurisdiction of the court of Munsif to entertain the suit. The court of learned Munsif where the suit was pending has passed the impugned



order holding that the valuation of the two sale deeds is in total Rs. 21,000/- as the valuation of the suit property has been mentioned as Rs. 10,500/- in each sale deed and therefore the suit is within the pecuniary jurisdiction of the court. Accordingly the petition filed by the petitioner has been dismissed.

Mr. Singh learned counsel appearing for the petitioners at the outset has submitted that there is clear and apparent error of fact in the impugned order, whereby the learned court below has taken into notice only two sale deeds, out of four sale deeds in challenge in the suit and has further also wrongly taken into notice that each sale deed is valued at Rs. 10,500/-. It has been canvassed that from the pleadings in the plaint as well as the relief portion, it would be clear that altogether four sale deeds each for consideration of Rs. 25,000/- are the subject matter of the suit and therefore, the total valuation as mentioned in the four sale deeds comes to Rs. 1 lakh which is clearly beyond the pecuniary jurisdiction of the court of the Munsif.

4. The learned counsel appearing on behalf of the respondents has also accepted that there are altogether four sale deeds under challenge in the suit.

5. After considering the submissions and perusal of the impugned order, it is manifest that the impugned order has

proceeded expressly on the basis that only two sale deeds each carrying the valuation of Rs. 10,500/- are under challenge in the suit whereas the facts apparent from the pleading are otherwise where altogether four sale deeds have been challenged. This fact has also been accepted on behalf of the opposite parties. In this view of the matter, this Court comes to the conclusion that the learned court below has committed error of record while passing the impugned order.

In the result, this revision application is allowed and the impugned order is set aside. The learned court below is directed to pass fresh order on the petition dated 07.08.2007 filed on behalf of the defendant-petitioner in the suit, in accordance with law. It is made clear that this court has not gone into the question regarding the merits of the rival contentions raised on behalf of the plaintiffs or defendants as well as the objection raised in the petition dated 07.08.2007 filed by the defendants and the same shall be decided on its own merits by the learned court below in accordance with law/rules without being prejudiced in any manner by this order.

(V. Nath, J)

Ranjan/-

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