

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1071 of 2016

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1. Nagendra Singh, S/o Late Awadhesh Singh,
2. Kamendra Singh @ Puttu Singh S/o Late Ramdhar Singh Both are
Resident of Village- Tenduni, P.S.- Bikramganj, District- Rohtas.

.... Petitioner/s

Versus

1. Satendra Narain Singh
2. Surendra Prasad Singh Both Sons of Late Alakh Narain Singh null
3. Sirato Kunwar, W/o Late Alakh Narain Singh
4. K. N. Fatehpuria, S/o not known to the petitioner Liquidator for the Land
of Arrah Sasaram Light Railway Company. Resident of Mohalla-9 Lal
Bazar Street Kolkatta, Pin Code- 700001, at Kolkatta, West Bengal.
5. Chairman Nagar Panchayat Bikramganj, P.O- Bikramganj, District-
Rohtas.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Gupta

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 17-02-2016 Heard learned counsel, Mr. A.K. Gupta appearing on
behalf of the petitioners.

2. This application under Article 227 of the Constitution
of India has been filed by the petitioners for setting aside the order
dated 27.11.2015 passed by the learned Sub-Judge-1st Bikramganj
in T.S. No. 1033 of 2013.

3. It appears that the plaintiffs-respondents filed the
aforesaid suit against the defendants-petitioners for declaration of
their title on the basis of the gift deeds executed by Mahadeo Rai,
the father of the plaintiffs. According to the plaintiffs the suit



property has wrongly been recorded in the name of the defendants. The present petitioners in this writ application filed application under Order 1 Rule 10 C.P.C. for being added as party in the suit on the ground that the suit property is the joint family property and they have also got share in the property. The court below has rejected the said application by the impugned order.

4. The learned counsel for the petitioners placed the Genealogical Table given by him with the intervention application. From the Genealogical Table, it appears that the common ancestor was late Shiv Shankar Rai, who had two sons, namely, Padarath Rai and Doman Rai. Padarath Rai had three sons including Mahadeo Rai and plaintiffs are claiming to be the daughter of Mahadeo Rai. So far the intervenors are concerned, they are branch of Doman Rai i.e. 6th generation from the common ancestor, Shiv Shankar Rai. Therefore, the case of the interveners that they have a share in the suit property and there was no partition between the parties is not involved in the original suit.

5. The Hon'ble Supreme Court in the case of ***Kasturi vs. Iyyamperumal*** reported in **2005 (6) SCC 733**, has held that from a plain reading of expression "all the questions involved in the suit" used in Order 1 Rule 10 (2) C.P.C., it is abundantly clear that the Legislature clearly meant that only the controversies

raised as between the parties to the litigation must be gone into, that is to say, controversies with regard to the right which is set up and the relief claimed on one side and denied on the other and not the controversies which may arise between the plaintiffs or the defendants inter se or questions between the parties to the suit and third party.

6. In the present case, according to the plaintiffs, the property has been gifted by their father. So far the question raised by the interveners that they have a share or that the property is joint family property is a foreign question to the original suit. Therefore, intervention application has rightly been rejected by the court below. Thus, no interference can be made in supervisory jurisdiction under Article 227 of the Constitution of India. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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