

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.13020 of 2013**

- =====
1. Shayambati Devi Wife Of Late Ram Prakash Lal.
  2. Uma Kumari Daughter Of Late Ram Prakash Lal Resident Of Mohalla-  
Babuganj, P.S.- Khagaria, District- Khagaria.

.... .... Petitioner/s

Versus

1. Meena Devi Wife Of Kailash Mahto, Resident Of Mohalla Doun Nagar, P.S.-  
Khagaria, District Khagaria
2. Upendra Yadav Son Of Late Deoki Prasad Resident Of Village Khardiyara, P.S.  
Sahebpur, District- Begusarai
3. Urmila Devi Wife Of Prabhash Kumar Resident Of Village Rahimpur Morkahi,  
P.S.- Mufassil, District- Khagaria
4. Rajesh Kumar Son Of Anandi Prasad Yadav Resident Of Labhgawn, P.S.  
Khagaria, District- Khagaria.

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Priya Gupta, Adv.

For the Respondent/s : Mr. Prabhat Ranjan, Adv.

=====

**CORAM: HONOURABLE MR. JUSTICE V. NATH**

**ORAL JUDGMENT**

**Date: 15-11-2016**

Heard learned counsel for the parties.

By the impugned order, the learned court below has directed that the plaintiff would be liable to pay the court fee in accordance with Section 7 (iv) (c) of the Court Fees Act.

Learned counsel for the petitioners has categorically stated



that the suit has been filed for declaration that the sale deed in question is null and void and not binding upon the plaintiff and no consequential relief has been prayed. Learned counsel has also drawn the attention of this Court to the averment in paragraph-12 of the plaint mentioning the relief prayed by the plaintiff in the suit.

Learned counsel for the other side, however, has not denied the said fact but has submitted that after grant of the said relief the consequential relief may follow and therefore the plaintiff is liable to pay the court fee on that basis.

After considering the submissions and perusal of the impugned order, it is apparent that the learned court below has gone beyond the jurisdiction in holding that before determining the validity of the sale deed in question the court will have to go into the issues of joint title and possession of the plaintiff over the suit land and therefore the necessary legal consequences are impliedly involved in the plaint. The reasonings assigned by the learned court below are completely perverse and cannot be sustained in the eye of law.

The present application is, accordingly, allowed and the impugned order passed by the learned court below is set aside.

**(V. Nath, J)**

Devendra/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

