

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13737 of 2014

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Gauri Shankar Gupta Son of Late Ram Chandra Prasad Agrahari Resident of Mohall-Nand Gola, Devi Asthan, P.S.- Malsalami, District- Patna.

.... Petitioner

Versus

1. Smt. Asha Gupta Wife of Sri Nand Kishore Prasad, daughter of Late Ram Chandra Prasad Agrahari.
2. Sri Uma Shankar Gupta Son of Late Ram Chandra Prasad Agrahari.
3. Sri Shiv Shankar Gupta Son of Late Ram Chandra Prasad Agrahari
4. Sri Ravi Shankar Gupta Son of Late Ram Chandra Prasad Agrahari Respondent no. 1 to 4 are resident of Mohalla- Nand Gola, Devi Asthan, P.S.- Malsalami, District- Patna.
5. Smt. Rupa Gupta Wife of Sri Ravi Prakash Gupta and daughter of Late Ram Chandra Prasad Agrahari resident of Mohalla- Loharpatti, Pani Tanki, Main Road, Motihari, P.S. & District- East Champaran, at Motihari.
6. Kanchan Kumari Gupta wife of Late Birendra Kumar Gupta and daughter of Radha Krishna Lal Resident of Village- Hakiatpur, Bakhtiyarpur, P.S.- Bakhtiyarpur, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Mauli Chaurasia, Adv.
For the Respondent No.3: Mr. Shashi Shekhar Dwivedi, Sr. Adv.
Mr. Ranjan Kumar Dubey, Adv.
Mr. Parth Gaurav, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 29-09-2016

Heard Mr. Chaurasia, learned counsel appearing
for the petitioner.

The present application under Article 227 of the
Constitution of India has been filed assailing the impugned order by
which the learned court below refused the prayer for amendment as
prayed by the plaintiff for adding the property standing in the name of
wife of defendant no.5 as suit property. The learned counsel for the

petitioner has fairly accepted that the wife of defendant no.5 is not a party to the suit. It is also admitted position that the property stands in the name of Renu Gupta who is wife of defendant no.5. The presumption of law is that the property is her own property unless that presumption is rebutted but the same can be done only when the said wife Renu Gupta would have been a party in the suit. The learned court below has given the correct finding that in absence of Renu Gupta as a party in the suit, the prayer for amendment for adding property standing in her name could not be allowed. This Court, therefore, is not inclined to interdict the impugned order.

The application is, accordingly, dismissed.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.10.2016
Transmission Date	