

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9551 of 2014

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Shyam Shankar Prasad son of Late Ramji Prasad r/o Mohalla - Sonar Toli, P.O.
Siwan, P.S. Town, Distt. Siwan Petitioner.

Versus

1. Shiv Shankar Prasad son of late Ramaji Prasad
2. Santosh Kumar
3. Sunil Kumar
4. Mantu Kumar All son of late Uma Shankar Prasad
5. Gauri Shankar Prasad son of Late Ramaji Prasad
6. Amrit Raj son of Vijay Shankar Prasad
7. Puja Kumari
8. Bandana Kumari
9. Komal Kumari All d/o Vijay Shankar Prasad All r/o Mohalla - Sonar Toli, P.O.
Siwan, P.S. Town, Distt. Siwan Respondents.

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Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 12-05-2016

V.Nath, J.

Heard the learned counsel for the petitioner.

Questioning the legal acceptability of the impugned order by which the learned court below has rejected the prayer of the petitioner for enhancing the valuation of the suit, the present application under Article 227 of the Constitution of India has been filed.

From the averments made in the application and after considering the submissions, it is manifest that the suit has been filed for declaration of title and recovery of possession over the suit property. The defendant filed the petition for enhancing the valuation of the suit on the ground that the suit property has much more market value. The learned court below after considering the submissions and

the materials on record has rejected the same prayer.

From the perusal of the impugned order, it transpires that the learned court below has rightly applied the legal principle in this regard which has been well settled by the Full Bench decision of this Court in the case of **Md. Alam Vs. Gopal Singh, 1987 PLJR 370**. In view of the dictum laid down by the full bench, it is manifest that the valuation of the property in dispute and the valuation of the relief claimed by the plaintiff are clearly distinct and the plaintiff has been given the liberty to put the valuation of the relief claimed by him in the suit. The jurisdiction of the court to interfere with such valuation has also been explained which can be exercised only when the plaintiff has manifestly and deliberately undervalued and underestimated the relief(s). No law or precedent has been brought to the notice of this Court on behalf of the petitioner to support the contention that the valuation of the suit in such a case would be in accordance with the market value of the suit property.

For the aforesaid reasons and discussions, this Court does not find any merit in this application, which is, accordingly, dismissed.

(V. Nath, J)

Nitesh/-

AFR/NAFR	
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