

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20733 of 2012

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Anwar Hussain S/o Late Abadar Hussain, Resident of Village -
Mobarakpur, P.S. Krishna Garh (Barhara), District - Bhojpur, Ara
.... Petitioner

Versus

Razak Mian S/o Late Mohabali, Resident Of Village - Mobarakpur, At
Present Jahura Bad, P.S. - Krishna Garh (Barahara) District - Bhojpur
.... Respondent

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Appearance :

For the Petitioner/s : Mr. Gopal Govind Mishra, Advocate.

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL ORDER

2 06-01-2016 Heard learned counsel for the petitioner. Petitioner has challenged the order dated 26.07.2012 passed by 2nd Additional District Judge, Bhojpur at Ara in Title Appeal No. 78/2008 whereby and where under the learned Appellate Court declined to exercise the power so vested Under Order-41 Rule-27 of the Code of Criminal Procedure. It has been submitted on behalf of the petitioner that the total area of disputed land happens to be 31 decimal out of which, half portion has been purchased by him while half portion was purchased by the defendant in the year 1953. Because of the fact that during course of Revisional survey operation the map has been prepared less than the area covering under his sale deed while the area shown under map comprises

bigger area than sale deed of defendant/ respondent, therefore, instant title suit has been filed wherein, even on due diligence they could not be able to procure the document having in favour of defendant, which, they have now procured and accordingly, prayed for admitting thereof. With regard to other documents, the learned counsel did not press.

There happens to be presumption against the registration of the sale deed to be known to all and further plaintiff/ appellant was well aware since before regarding purchase of half share by them while half share by the defendant/ respondent relating to the disputed land and on account thereof, there should have been proper and sincere effort at their end in order to substantiate their claim which, from their own conduct nullify. However, the second option is available whereunder a prayer may have before the learned lower Court, who will see whether there happens to be relevancy of the aforesaid document to enable it to pronounce judgment or for any other substantial cause.

With the aforesaid finding, instant petition is disposed of.

(Aditya Kumar Trivedi, J)

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