

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.79 of 2016

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1. Bishwanath Rai son of late Tulsi Rai, resident of village-Sabalpur chaharpur, P.S. Sonapur, District-Saran.
 2. Bharat Rai.
 3. Satruhan Rai.
 4. Ram Janam Rai, all sons of late Baijnath Rai.
 5. Rama Shankar Rai.
 6. Deo Shankar Rai.
 7. Hari Shankar Rai, all 5 to 7 sons of late Ramji Rai, all 2 to 7 residents of village Sabalpur, Chakaram, P.S. Sonapur, District-Saran.
 8. Shyam Babu Rai.
 9. Surendra Rai all 8 to 9 sons of late Ram Ajodhya Rai, all 8 to 9 resident os village-Nakata Diyara, P.S. Digha, District-Patna.

.... Petitioner/s

Versus

1. Sidheshwar Sharma son of Ram Nepal Singh, resident of village Sabalpur Babhan Toli, P.S. Sonapur, District-Saran (Chapra).
2. Dharambir Rai, son of late Ram Pravesh Rai.
3. Mahabir Rai, son of late Radha Prasad Rai.
4. Bulla Rai, son of late Lachhuman Rai.
5. Shyam Rai, son of late Gogendra Rai.
6. Ramakant Rai son of late Bishun Rai.
7. Rajendra Rai, son of late Ramanand Rai.
8. Jadimangal Rai son of late Ramratan Rai.
9. Bhowchand Rai son of late Kishundeo Rai.
10. Lalbabu Rai son of late Jadunandan Rai
11. Kishore Rai, son of late Raghunath Rai.
12. Ram Janam Rai, son of late Dhaani Rai.
13. Ram Karan Rai, son of late Imrit Rai.
14. Dashrath Rai, son of late Ram Aashish Rai.
15. Jawahar Rai, son of late Banarsi Rai.
16. Dindayal Rai, son of late Chander Rai.
17. Hirdeo Rai son of late Singhashan Rai, all 2 to 17 residents of village-Sabalpur, Pachheyari, P.S. Sonapur, District-Saran.



18. Shankar Singh, son of late Ram Lakhan Maho, resident of village Tikiya Toli, P.S. Sultanganj, District-Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar-A.S.G.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 05-12-2016

Heard Mr. Sanjay Kumar, learned counsel for the petitioners on merits as well as in the interlocutory application (I.A. No. 9202 of 2016) which has been filed praying for stay of further proceeding of T.S. No. 166 of 2011.

It is evident from the revision application as well as from the submissions that after filing of the said suit, the present petitioners who were defendants filed a petition in the said suit praying for rejection of the plaint. The said prayer was turned down by the learned court below by order dated 13.03.2013 against which the present petitioners approached this Court by filing C.R. No. 61 of 2013. From the order dated 08.05.2013 (Annexure-4), it transpires that this Court after considering the submissions as raised on behalf of the petitioner on the basis of Section 21 C.P.C. has disposed of the revision application granting opportunity to the petitioners to raise their objection during the course of trial.

By the impugned order, it does not appear that the trial in



the suit has yet commenced. However, the defendant-petitioners again filed a similar petition which has been rejected by the impugned order by the learned court below in view of the observations as made in the order of this Court (Annexure-4).

Learned counsel for the petitioners has prayed, in the facts and circumstances before this Court, that an opportunity be granted to the petitioners to raise his objection after the commencement of the trial.

After considering the submissions and in the facts and circumstances of the case, this Court does not find that the learned court below has committed error of jurisdiction or material irregularity in passing the impugned order. This Court however finds substance in the submissions on behalf of the petitioners for grant of opportunity to the petitioners to raise the objections after commencement of the trial.

This revision application is, accordingly, dismissed.

However, this order shall not prejudice the petitioners from raising any objection, if permissible, in accordance with law in the suit in pursuance to the earlier order of this Court.

(V. Nath, J.)

Devendra/-

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