

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.160 of 2013

- =====
1. Mostt. Kaushalya Devi, wife of late Dhoruplal Patewa.
 2. Rama Nand Kumar Patewa, son of late Dhruplal Patewa
 3. Ghaya Nand Kumar Patewa
 4. Nitya Nand Kumar Patewa
 5. Gita Devi from 3 to 5 are sons and daughter of Dhruplal Patewa
- All are residents of village-Bargaon, P.S.-Palasi, District-Araria

.... Petitioner/s

Versus

1. Yogi Mohan Biswas
2. Ram Pd. Biswas
3. Rameshwar Biswas. All are sons of late Jharkoolal Biswas, resident of village-Barhauili, P.S.-Palasi, District-Araria
4. Tinkoori Yadav,
4 (a) Mostt. Rambati Devi. From 4 to 4(a) are son and widow of late Jageshwar Biswas of village-Barhauili, P.S.-Palasi, District-Araria
5. Pardip Biswas, S/o late Nand Mohan Biswas
6. Naveen Biswas, son of late Anandi Biswas, R/o Barholi, P.S.-Palasi, District-Araria.
7. Narain Biswas
8. Surendra Biswas. Both are son and daughter of late Shyam Sunder Biswas.
9. Umesh Kumar Biswas
10. Hasim Devi
11. Ganga Prasad Biswas. All 9 to 11 are sons and daughter of Singeshwar Prasad Biswas.
12. Girver Biswas
13. Jhitar Biswas.
14. Gaya Nand Biswas
15. Mohan Devi
16. Bina Devi
17. Andu Kuwar Biswas. Sl. 12 to 17 are sons and daughter of Nand Kumar Biswas
18. Nagin Bishwas
19. Niraj Biswas.
20. Balu Devi. All are sons and daughter of Anand Mohan Biswas.
21. Baby Devi, D/o Late Ganga Bishwas
22. Nagmani Kumar @ Nagmani Kumari, S/o Late Ganga Bishwas
23. Nutan Kumari & Nutan Kumari, D/o Late Ganga Bishwas
24. Uran Kumari @ Nisal Kumari, D/o Late Ganga Bishwas
25. Kiran Kumari, D/o Late Ganga Bishwas
26. Urmila Devi, wife of late Ganga Bishwas, resident of village-Barhauili, P.S.-Palasi, District-Araria

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Ram Janam Maharaj, Advocate
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 14-07-2016

Heard learned counsel for the petitioners and learned counsel for the opposite parties both in the limitation matter and merits as well.

The Interlocutory Application (I.A. 7989 of 2013) has been filed under Section 5 of the Limitation Act on behalf of the petitioners praying for condonation of delay in filing this revision application. It appears from the records that this revision application was presented on 30.08.2013 and after the removal of defects, the same has been filed on 20.09.2013. Considering the facts and circumstances as well as submissions, the delay in filing the application is condoned.

From the facts, it appears that the compromise decree passed in Title Suit No. 2034 of 1961 on 27.07.1962 was questioned by the petitioners by filing petition on 01.07.1999 under Section 151 of the Code of Civil Procedure and under Order 23 Rule 3A. On the basis of the said petition Miscellaneous Case No. 25 of 1999 was initiated. The primary basis of the petitioners for assailing the compromise decree related to the genuineness of the L.T.I. of the predecessor-in-interest on the compromise petition. The learned court below has found on the basis of scrutiny of pleading and evidence led by the parties in the Miscellaneous Case, that there was no pleading

on behalf of the petitioners in the petition that his predecessor-in-interest had lost his thumb or finger due to leprosy and in that view of the matter, the learned court below discarded the evidence led in that regard on behalf of the petitioners. Further, the learned court below has also considered the evidence led by the parties on the issue of fraud in obtaining the said compromise and thereafter has come to the conclusion that the petitioners have failed to prove the case of fraud as alleged. It has also been found that the petition was barred by law of limitation as the compromise decree passed in 1962 has been challenged in 1999 though it has been established from evidence that the petitioner had prior knowledge of the same. This Court has not been persuaded to find any error of jurisdiction or material irregularity committed by the learned court below in the impugned order.

This application is accordingly dismissed.

(V. Nath, J)

Vats/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	06.09.2016
Transmission Date	06.09.2016