IN THE HIGH COURT OF JUDICATURE AT PATNA

Second Appeal No.203 of 1986

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1. (i) Sanjay Kumar Yadav.

   (ii) Satrughan Kumar Yadav.

   (iii)Niraj Kumar Yadav.

   (iv) Munna Kumar Yadav.

   All sons of Late Vijay Rai.

   All Resident of Village-Hasssanpur, P.S.-Sonepur, P.O.-Nayagaon, District-Saran.

   (v) Lalita Devi Wife of Ajai Yadav and daughter of Late Vijay Rai, resident of Village-Puria, P.S.-Ismalia, P.S.-Dighwara, District-Saran.

   (vi) Niraj Devi, Wife of Sunnil Kumar Yadav and daughter of Late Vijay Rai, resident of village- Sagalpur P.O.- Sonepur, P.S.-Sonepur, District-Saran.

   (vii) Sanju Devi Wife of Rakesh Kumar Daughter of Late Vijay Rai Resident of Sabalpur P.O.+P.S.-Sonepur, District-Saran.

   (viii) Priyanka Kumari daughter of Late Vijay Rai.

   (ix) Manisa Kumari minor daughter of Late Vijay Rai under the guardianship of Shail Devi who is mother and natural guardian.

   Both are residents of village Hassanpur P.S.-Sonepur P.O.-Nayagaon, District-Saran.

2. (a) Ramkali Devi Wife of Late Vakil Rai.

   (b) Prem Chandra Yadav.

   (c) Jai Prakash Yadav.

   Both sons of Late Vakil Rai.

   (d) Madhu Kumari Daughter of Late Vakil Rai.

   (e) Rinki Kumari minor daughter of Late Vakil Rai through Ramkali Devi as mother and guardian.

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All daughters and sons and wife of Late Vakil Rai, residents of village-Hassanpur, P.S.-Sonepur, P.O.-Nayagaon, District-Saran. ... . Appellants

Versus

1. (a) Mostt. Saraswati Devi Wife of Late Ram Swaroop Rai.
   (b) Mahendra Rai, Son of Late Ram Swaroop Rai.
   (c) Gajendra Rai, Son of Late Ram Swaroop Rai.
   (d) Muni Kumari minor daughter under the guardianship of Mostt. Saraswati Devi.
   (e) Smt.Sharda Devi, Daughter of Late Ram Swaroop Rai.
   (f) Smt.Bimal Devi, Daughter of Late Ram Swaroop Rai.
   (g) Smt. Panna Devi, Daughter of Late Ram Swaroop Rai.

2.(i) Lakhi Rai, Son of Late Devlal Rai, R/o Village+P.O. P.S.-Nayagaon, District-Saran. .... Respondents

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Appearance :
For the Appellant/s : Mr. SURESH CHANDRA PD.SINHA
Mr. Satish Gupta
Mr. Bireshwar Pd.Sinha
Mr. Rajendra Kishore Prasad
Mr. Manojeshwar Pd.Sinha
Mr. Arjun Singh
Mr. Madhukar Pandey
Mr. Ratan Kumar Sinha
For the Respondent/s : Mr. MANAN KUMAR MISHRA

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 07-07-2017

No body is present either on behalf of the appellants or the contesting respondent even after repeated call for hearing of this appeal. However, learned counsel appearing for the respondent no.2 (i) Lakhi Rai is present and has pressed the three interlocutory applications (I.A.No.210/2017, I.A.No.211/2017 and I.A.No.1866/2017) filed on behalf of the said respondent.

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From the perusal of the previous orders also, it transpires that the advocates, who represented the appellants, had submitted before this Court that they had now no instruction to appear in this appeal on behalf of the appellants, as the appellants had even taken away the brief of the case. No one was present on behalf of the contesting respondent no.1, though, learned counsel for the respondent no.2(i) Lakhi Rai was present on that day also.

This appeal is accordingly, dismissed as not pressed.

With regard to the three interlocutory applications I.A.No.210/2017, I.A.No.211/2017 and I.A.No.1866/2017) filed on behalf of the respondent no.2(i) Lakhi Rai, it appears that the prayer in those interlocutory applications pertains to the return of the original records obtained by the respondent no.1(c) Gajendra Rai (substituted heir of the deceased respondent no.1), which were made exhibits in the suit, but subsequently received back by the said respondent no.1(c) Gajendra Rai. It has been averred in the three interlocutory applications and also submitted by learned counsel for the respondent no.2(i) that the respondent no.1(c) had taken away those documents and has not returned the same even after the direction of this Court for return of those documents (marked exhibits in the suit). It has been pointed out that those documents are the

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documents of title of the original respondent no.2 Smt. Rajmati Devi in whose place, the present respondent no.2(i) Lakhi Rai has been substituted. The prayer in the three interlocutory applications, in substance, is for return back those documents to the respondent no.2(i) or to initiate a proceeding for contempt against respondent no.1(c) Gajendra Rai for his failure to return back those documents in spite of direction of this Court.

After considering the submissions and the averments made in this application, this Court, in face of the fact that this appeal has been dismissed, is not inclined to allow the prayer of respondent no.2(i) as made in the above three interlocutory applications.

Those three interlocutory applications are accordingly disposed of with liberty to the respondent no.2(i) Lakhi Rai to take appropriate steps, permissible in law for recovery of the documents alleged to have been obtained by respondent no.1(i) Gajendra Rai from him.

(V. Nath, J)

Nitesh/-

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