

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1547 of 2017

1. Ram Narayan Agarwal,
2. Ram Ratan Agarwal,
Both sons of Late Sita Ram Agarwal, residents of Hasanpur Road
Market, P.O.- Hasanpur Sugar Mill, P.S.- Hasanpur, Sub Division
Rosera, District- Samastipur.

... .. Petitioners

Versus

1. Shivchandra Agarwal, Son of Late Premraj Agarwal, resident of Hasanpur
Road Market, P.O.- Hasanpur Sugar Mill, P.S.- Hasanpur, Sub Division
Rosera, District- Samastipur.
2. Ram Niwas Agarwal,
3. Nand Kishore Agarwal,
4. Vijay Kumar Agarwal,
5. Mahendra Agarwal,
6. Devi Prasad Agarwal,
7. Sunil Kumar Agarwal,
2 to 7 are sons of Late Sri Krishna Agarwal, residents of Hasanpur Road
Market, P.O.- Hasanpur Sugar Mill, P.S.- Hasanpur, Sub Division - Rosera,
District- Samastipur.
8. Sushila Devi, Wife of Nandlal Agarwal, Resident of Tegra Bazaar, P.O. & P.S.
Teghra, District- Begusarai at present resident of Hasanpur Road Market, P.O.
Hasanpur Sugar Mill, P.S. Hasanpur, Sub Division Rosera, District-
Samastipur.
9. Savita Devi, Wife of Bharat Khandelua, Resident of Dinanath Sadi House,
Bank Road Sutapatti, District- Muzaffarpur.
10. Madhu Devi, Wife of Shri Ram Khandelua, Resident of Sunil Kirana Store,
Mal Godam Road, Town Khagaria, District- Khagaria.
11. Kiran Devi, Wife of Ratan Kejriwal, Resident of Jamalpur Gaugari, P.O.-
Jamalpur Gaugari, District- Khagaria.
12. Archana Devi, Wife of Sandip Agarwal, Resident of Sanskar Sadi Pvt. Ltd.,
Gautam Textiles Market, Ring Road, Surat (Gujrat).
13. Richa Devi, Wife of Vinod Tibrawal, Resident of Pramod Vastralay, New
Market, Ram Nagar, P.O. Ram Nagar, District- West Champaran.
14. Deepak Tulsiyan, Son of Late Matadin Tulsiyan,
15. Rajesh Kumar Tulsiyan, Son of Late Matadin Tulsiyan, Both residents of C/o
Y.M. Singh, Gangwar, 638 Premnagar, Bareilly, (U.P.)
16. Shobha Devi, Wife of Hargovind Munarka, Resident of Station Road,
Janakpur Dham, Nepal at present resident of C/o Y.M. Singh, Gangwar, 638,
Premnagar, Bareilly (U.P.)
17. Niru Agarwal, Wife of Shyam Pacharia, resident of House No.5, Radha
Swami Enclave near Brijlok Colony, Dharmkanta, Premnagar, Bareilly (U.P.)
18. Prabha Devi, Wife of Ramesh Poddar, Resident of Bhagwati Drugs, Lal
Bazaar, Bettiah, District- West Champaran.
19. Kusum Devi, Wife of Arun Vohra, Resident of E/16 Industrial Area, Near
Patrika Office, Kota Rajasthan.
20. Usha Devi, Wife of Surendra Kejriwal, Resident of Suresh Medical Hall,
Jhanjharpur Bazar, District- Madhubani.

... .. Respondents



Appearance :

For the Appellants : Mr. Jitendra Kishore Verma
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 22-11-2017 Heard learned Counsel for the petitioners.

The petitioners are aggrieved by an order, dated 01.08.2017, passed in Partition Suit No. 87 of 1987, whereby learned Sub Judge II, Rosera, Samastipur, has refused the prayer for amendment in the written statement.

The submissions have been advanced at length on the point of scope of power of the Court below and duties, while considering an application for amendment in the pleadings, particularly, the written statement.

For the present, I need not comment on the arguments, which have been advanced on behalf of the petitioners since I am of the view that the impugned order does not require interference in a proceeding under Article 227 of the Constitution of India, which is to be exercised in extra-ordinary circumstances. Since the petitioner has remedy of questioning the correctness of the impugned order, if he fails in the said partition suit, before the appellate court, I do not consider it appropriate to go into the correctness or otherwise of the impugned order.



This application is accordingly disposed of with an observation that the petitioners shall have the liberty to take the plea, which has been taken in the present application, at the stage of appeal, if such situation arises.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

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