

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.134 of 2016

- =====
1. Dewanand Singh son of Late Rambachan Singh.
 2. Shailesh Kumar alias Dharmendra Kumar son of Dewanand Singh.
 3. Satya Prakash alias Mantu Kumar son of Dewanand Singh,. All are resident of village Gorakhni, Police Station Bikram and District Patna.

.... Petitioners

Versus

1. Radha Raman Singh, son of Late Rajnarayan Singh.
2. Damodar Singh son of Late Rajnarayan Singh.
3. Ajay Kumar son of Late Chandeshwar Singh.
4. Ashok Singh son of Late Rajnarayan Singh, all are resident of village Gorakhni, Police Station Bikram and District Patna.

.... Opp.Parties

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Appearance :

For the Petitioner/s : Mr. Parth Sarthy, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

Date: 09-05-2017

Heard Mr. Parth Sarthy, learned counsel for the defendant-petitioners.

The revision application has been filed against the order dated 25.5.2016 passed in T.S. No. 125/2014 by learned Sub-Judge, Paliganj by which the learned court below has turned down the prayer made on behalf of the defendant-petitioners for rejection of the plaint under Order 7 Rule 11 CPC and rejected the petition in this regard.



Mr. Parth Sarthy, learned counsel for the petitioner has submitted that the defendant-petitioners have prayed for rejection of the plaint on the ground of limitation alone. It has been contended that by filing the present suit the plaintiffs-opposite parties want enforcement of the decree passed long time back on 12.4.1979 in T.P.S. No. 215 of 1975. It has therefore, been propounded that such a suit is clearly barred by limitation as the same cannot be enforced after lapse of more than 12 years.

After considering the submissions and perusal of the impugned order, it transpires from the averments made in the plaint (Annexure-1) that the plaintiffs have clearly stated in paragraph-11 of the plaint asserting some adjustment between the parties even after the compromise with regard to the suit property and hence alleged that defendants have subsequently resiled from the said adjustment giving rise to the present suit.

From a bare perusal of the findings recorded in the impugned order, it does not appear that the suit was barred by limitation in view of the plea on behalf of the petitioners that the suit is in fact by way of seeking execution of the decree passed in T.P.S. No. 215 of 1975. The trial court has correctly come to the conclusion that the issue of limitation is a mixed question of law and fact in the facts of the case.



This Court finds that there is no illegality committed by the trial court in passing the impugned order.

The revision application stands dismissed.

(V. Nath, J)

S.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.6.2017
Transmission Date	

