

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14912 of 2013

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Shanti Devi wife of Vinod Kumar daughter of late Hanumat Pd. @ Hanimat Prasad,
resident of village-Mamarkha, P.O. Mamarkha, P.S. Malahi, District-East
Champaran.

.... Petitioner/s

Versus

1. Arvind Kumar Sriwastawa.
2. Pankaj Kumar, both sons of late Jawala Prasad, both resident of Raxaul, ward
No. 13 P.O. and P.S. Raxaul, District-East Champaran.
3. Akhileshwar Pd. Sinha son of Bidyanand pd.
4. Ankur Priyam son of Akhileshwar Pd. Sinha.
5. Ankita Kumari daughter of Akhileshwar Pd. Sinha, all residents of Mohalla-
Koiria Tola Raxaul, behind ward no. 25, behind Raxaul Municipality, P.O. and
P.S. Raxaul, District-East Champaran.
6. Rajni Sriwastawa wife of Ashit Krishna, resident of Narayan City, Apartment
Brahm Ashan Road Sheikhpura, Patna P.S. Sheikhpura, District-Patna.
7. Savitri Devi wife of late Rajeshwar Pd.
8. Ajay Kumar.
9. Prem Kumar Sriwastwa.
10. Ajeet Kumar, all sons of late Rajeshwar Pd. Resident of Raxaul, ward No. 13
P.O. and P.S. Raxaul, District-East Champaran presently Rajeshwar Hotel,
Block Road, Raxaul, P.O. and P.S. Raxaul, District-East Champaran.
11. Shakuntala verma wife of Ambrish Verma C/o late P.P. Verma, R/o Mohalla
Agarwa Lala Tola Near Sharda Shyam Sewa Ashram Agarwa, P.O. and P.S.
Motihari, District-East champaran.
12. Sanjna Devi.
13. Anjana Devi.
14. Neelam Devi, all daughter of late Rajeshwar Pd. Resident of Raxaul, ward No.
13 P.O. and P.S. Raxaul, District-East Champaran presently Rajeshwar Hotel,
Block Road, Raxaul, P.O. and P.S. Raxaul, District-East Champaran.
15. Abhinandan Kumar son of Bipin Bihari Prasad, resident of Raxaul, Mahabir
Nagar Road ward no. 19, P.O. and P.S. Raxaul, District-East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. R. Ahsan, Sr. Adv.

For the Respondent/s : Mr. Rajendra Narayan, Sr. Adv.

Mr. Lallan Kumar Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 28-03-2017

Heard Mr. Raghiv Ahsan, learned senior counsel for the petitioner and learned counsel for the respondent nos. 1, 2, 6, to 10 and 11 to 14. The notice was earlier issued to the respondents in the admission matter which has been reported to be validly served upon the respondents.

By the impugned order, the learned court below has rejected the prayer made by the plaintiff-petitioner for addition of the purchasers-pendente lite as party defendants in the suit.

The matrix of facts discloses that the suit has been filed for partition. During the pendency of the suit some of the defendants have transferred the part of the suit property to different persons. The petition was filed by the plaintiff on 21.01.2013 (Annexure-2) praying for addition of those purchasers as parties in the suit.

During the course of submissions, learned counsel for the respondents has accepted that the transfer of the part of the suit property has been made in favour of the persons as mentioned in the petition (Annexure-2) during the pendency of the suit. Learned



counsel for those respondents has raised no objection if those purchasers are made parties in the suit.

After considering the submissions and the materials on record, it is evident that the suit has been filed for partition of the suit property by the plaintiff-petitioner and during the pendency of the suit some of the defendants have transferred the suit property to the persons named in the petition (Annexure-2). In view of the principle as laid down by this Court as well as the Apex Court in the case of **Gauri Shankar Pathak Vs. Dr. Shankaranand Upadhyay, 2011 (2) PLJR 547, Sri Kapildeo Narayan Singh Vs. The State of Bihar, 2012 (2) BBCJ 495 and Md. Kamaluddin Vs. Laxmi Devi, 2014 (2) PLJR 125**, this Court finds that the learned court below has committed material irregularity and illegality in passing the impugned order rejecting the prayer of the plaintiff-petitioner for addition of the pendente lite purchasers as parties in the suit. Further taking into notice the stand on behalf of the respondents also, this Court finds that those purchasers are necessary or at least proper party in the suit for partition as they have purchased the part of the suit property during the pendency of the suit. In this view of the matter, this Court, is inclined to quash the impugned order.

Accordingly, this application is allowed and the impugned order dated 26.06.2013 passed by the Sub Judge IV, Motihari in T.S.



No. 907 of 2012 is quashed. The persons named in the petition (Annexure-2) filed by the plaintiff are directed to be made party-defendants in the suit. However, those purchasers as parties in the suit shall not be entitled to raise any new plea in defence and travel beyond the pleadings of their vendors in the suit.

Devendra/-

(V. Nath, J)

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