

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16095 of 2013

=====

1. Dilip Kamkar @ Dilip Kharmar @ Dilip Kumar Son Of Late Kauleshwar Kamkar Resident Of Village Purana Bhojpur, Police Station Dumaron, District Buxar

2. Manghil Kamkar Son Of Late Kauleshwar Kamkar Resident Of Village Purana Bhojpur, Police Station Dumaron, District Buxar

3. Brij Kishore Kamkar Son Of Late Kauleshwar Kamkar Resident Of Village Purana Bhojpur, Police Station Dumaron, District Buxar

.... Petitioner/s

Versus

1. Kamla Devi W/O Ramlal Singh Resident Of Village Purana Bhojpur, Police Station Dumraon, District Buxar

2. Most. Kaushalya Devi W/O Late Ramnath Prasad Resident Of Village Purana Bhojpur, Police Station Dumraon, District Buxar

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. DWIVEDY SURENDRA, ADV

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 02-02-2017

Heard learned counsel for the parties.

The present application has been filed praying for quashing the order dated 11.06.2013 passed in an eviction suit where the petition filed by the defendants for taking into evidence the two documents has been rejected.

The learned counsel for the petitioners has submitted that the two documents are necessary for the just decision in the suit and are valuable piece of evidence in support of the plea raised by the petitioners as defendants in the suit.



Learned counsel for the petitioners, however, has not controverted the fact that out of the two documents sought to be adduced in evidence by the petitioners one document i.e. Voter ID has already been taken into evidence and marked as exhibit and with regard to another document which is a deed of Will, the prayer of the petitioners has already been rejected by earlier orders dated 14.07.2010 and 09.08.2011.

Mr. Abinash Kumar, learned counsel for the respondents has supported the impugned order.

After considering the submissions and perusal of the materials on record including the impugned order, it is evident that the proceeding of the suit for eviction has reached to advance stage where the argument on behalf of the parties is complete and at that stage the petition dated 10.04.2013 was filed by the defendant-petitioners praying for adducing two documents evidence i.e. Voter ID and the deed of Will as evidence. The fact is apparent and has not been controverted on behalf of the petitioners that the Voter ID has already been taken into evidence and the prayer of the petitioners for adducing the deed of Will in evidence has already been rejected by earlier two orders dated 14.07.2010 and 09.08.2011. It is also not the case of the petitioners that the earlier two orders dated 14.07.2010 and 09.08.2011 have been



assailed/challenged in any higher forum or any prayer for review or recall of those orders was made in the court below itself.

In this fact situation, the court below has rightly passed the impugned order turning down the prayer of the petitioners observing that the petitioners are in the habit of filing sham petitions.

In this backdrop, this Court comes to the conclusion that the petitioners have only the intention to delay the disposal of the eviction suit and for that purpose the vexatious and frivolous petitions are being filed by them. This Court, therefore, is not inclined to interfere with the impugned order which is accordingly dismissed with cost of Rs. 5000/- to be paid to the plaintiff-respondent by the defendant-petitioners which shall be a condition precedent in the suit for proceeding further with the case of the defendants. The amount of cost shall be deposited in the court below which shall allow the plaintiff to withdraw the same in accordance with law.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.02.2017
Transmission Date	N.A.

