

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.961 of 2016

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1. Kunti Devi wife of Late Basant Singh
 2. Om Prakash Sharma
 3. Satya Prakash @ Buchan Sharma Both sons of Late Basant Singh resident of Village Nepa Police Station- Tekari, District- Gaya.
 4. Poonam Devi wife of Binay Sharma, Daughter of Late Basant Singh Resident of Village- Baijalpur, Police Station Uphara, District- Aurangabad.
 5. Shiv Prakash Singh
 6. Tej Prakash Singh @ Buteran Singh Both sons of Late Madan Prasad Singh resident of Village Nepa Police Station- Tekari, District- Gaya.

.... Petitioner/s

Versus

1. Kusum Devi wife of Sri Prasad Narayan Singh Resident of Village Kusap Police Station Tekari District Gaya.
2. Smt. Sunaina Devi wife of Nandlal Prasad Resident of Village Panchanpur, Police Station Tekari District- Gaya.
3. Smt. Sita Devi wife of Sri Satyendra Prasad Resident of Village Panchanpur, Police Station Tekari District- Gaya.
4. Jai Nandan Sharma
5. Vikash Sharma Both sons of Late Shyam Nandan Sharma
6. Jitendra Sharma
7. Yogendra Sharma Both sons of Late Ayodhya Singh
8. Umda Devi wife of Late Raj Nandan
9. Avinash Kumar
10. Aman Kumar both minor sons of Late Rajnandan Sharma
11. Kriti Kumari
12. Priya Kumari
13. Priyanshu Kumari All minor daughters of Late Raj Nandan Sharma, under the guardianship of their mother namely Umda Devi all resident of Village- Nepa Police Station- Tekari, District- Gaya.
14. Saket Sharma son of Late Basant Singh resident of Village Nepa Police Station- Tekari, District- Gaya.
15. Rinku Devi wife of Kaushal Sharma resident of Village Masanpur, Police Station- Paraiya, District- Gaya.
16. Smt. Urmila Devi Daughter of Mosahib Singh resident of Village Nepa Police Station- Tekari, District- Gaya.
17. Tulsi Yadav son of Nanhak Yadav
18. Maheshwar Yadav son of Nanhak Yadav Both resident of Village Nepa Police Station Tekari District Gaya.
19. Sri Ramashish Sharma
20. Sri Arvind Sharma Both sons of Sri Sudarshan Sharma Residents of Village Kusap Police Station Tekari District- Gaya.
21. Mahendra Sao son of Ram Khelawan Sao
22. Sudarshan Yadav son of Sonu Yadav Both resident of Village Subasin, Police Station Tekari District Gaya.

.... Respondent/s

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Appearance :



For the Appellant/s : Mr. Pramod Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

6 18-12-2017 Heard both sides.

The petitioners filed this petition against the order dated 08.06.2016 passed in Title Appeal No.40 of 2014/72 of 2010.

The respondents are petitioners. The appellants filed petition under Order 41 Rule 27(aa) read with Section 151 C.P.C. for bringing on record the sale deed no.4288 dated 27.10.1990 as additional evidence and the court below allowed the same petition.

The learned counsel for the petitioner submits that according to provision as contained in Order 41 Rule 27 (1) (aa), the appellant has to show that even after due diligence and exercise of due diligence, he could not be able to bring on record the aforesaid document in evidence and the document is relevant for the disposal of the dispute. The learned counsel for the petitioner further submits that the learned Additional District Judge allowed the petition of the appellant without giving any reason.

On the other hand, the learned counsel for the respondents submitted that the order does not suffer from any illegality but from perusal of the order itself, it appears that the



order is cryptic and it sans reasoning. No reason is assigned for allowing the appellant to bring on record the sale deed as additional evidence.

Therefore, in my view, on this ground alone that the order is non-speaking, the order is not sustainable. Accordingly, the order dated 08.06.2016 is set aside. The matter is remitted to the learned court below to pass a fresh order in view of the provision as contained in Order 41 Rule 27 (1) (aa) of the Code after giving reasons.

(Prabhat Kumar Jha, J)

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