

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21545 of 2012

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1. Most. Sunaina Kuer, Wife of Late Dina Nath Bhagat,
 2. Ishwar Bhagat, Son of Late Dina Nath Bhagat,
 3. Takeshwar Bhagat @ Tarkeshwar Prasad, Son of Late Dina Nath Bhagat,
 4. Bindu Kumari @ Bindu Devi, Daughter of Late Dina Nath Bhagat,
All of the resident of Village- Kaparpura, P.S.- Mirganj, District- Gopalganj.
 5. Smt. Indu Devi, Wife of Umashankar Prasad, Daughter of Late Dina Nath Bhagat, Resident of Village- Sarasar, P.S.- Siwan, District- Siwan, Presently residing at Village Barawan Kaparpura, P.S.- Mirganj, District- Gopalganj.
 6. Smt. Shanti Devi @ Gyanti Devi, Wife of Shambhu Prasad, Daughter of Late Dina Nath Bhagat, Resident of Village- Krasti, P.S.- Maharajganj, District- Siwan, Presently residing at Village- Barawan Kaparpura, P.S.- Mirganj, District- Gopalganj.
 7. Ram Vijay Singh, Son of Late Parma Bhagat,
 8. Amarjit Kumar, Son of Late Patma Bhagat,
Both the resident of Village- Kaparpura, P.S.- Mirganj, District- Gopalganj (Bihar).
 9. Neela Devi, Daughter of Late Parma Bhagat, Wife of Shri Shahil Kumar, Resident of Village- Harkhauli, P.S.- Mirganj, District- Gopalganj (Bihar).
 10. Ramashish Bhagat,
 11. Suresh Bhagat,
 12. Umesh Bhagat @ Umesh Kumar Bhagat,
 13. Ramesh Bhagat,
 14. Janardan Bhagat,
 15. Awdhesh Kumar,
All of the sons of Late Chandrika Bhagat, Resident of Village- Kaparpura, P.S.- Mirganj, District- Gopalganj.
 16. Smt. Sunni Devi @ Sitwanti Devi, Wfie of Lalan Bhagat, Daughter of Late Chadrika Bhagat, Resident of Village- Shekhpura, P.S.- Baraharia, District- Siwan, Presently residing at Village Barawan Kaparpura, P.S.- Mirganj, District- Gopalganj.
 17. Smt. Devi, Wife of Umapati Bhagat, Daughter of Late Chandrika Bhagat, Resident of Village-Rakaba, P.S.-Bore, District-Gopalganj. Presently residing at village Barawan Kaparpura, P.S.- Mirganj, District- Gopalganj.
 18. Smt. Rina Devi, Wife of Tapan Bhagat, Daughter of Late Chandrika Bhagat, Resident of Village- Usti, P.S.- Duraundha, District- Siwan, Presently residing at Village Barawan Kaparpura, P.S.- Mirganj, District- Gopalganj.
 19. Smt. Manju Devi, Wife of Harkesh Bhagat, Daughter of Late Chandrika Bhagat, Resident of Village- Barhara, P.S.- Bhore, District- Gopalganj, Presently residing at Village Barawan Kaparpura, P.S.- Mirganj, District- Gopalganj.

.... Petitioners

Versus

1. Ganesh Prasad, Son of Late Shivji Prasad,
2. Ramesh Prasad, Son of Late Shivji Prasad, Both the resident of Village- Barawan Kaparpura, P.S.- Mirganj, District- Gopalganj.
3. Smt. Sushila Devi, Wife of Rajendra Prasad, Resident of Village- Jamunaha, P.S.- Kateya, District- Gopalganj, Presently residing at Village- Barawan



Kaparpura, P.S.- Mirganj, District- Gopalganj.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Balmeeki Pandey Bhaskar

For the Respondent/s : Mr. Naresh Prasad

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 01-11-2017

The petitioners before this Court are the plaintiffs before the court below. They have filed this civil writ application for setting aside the order dated 17.01.2012 passed by the learned Sub-Judge-VII, Gopalganj in Title Suit No. 156 of 1997. The learned Sub Judge as per impugned order allowed the amendment petition dated 20.06.2011, which was filed by the defendants.

2. Heard the learned counsel for the petitioners and the respondents.

3. It appears that the respondents-defendants filed an amendment petition for amending their written statement on 20.06.2011. A copy of the amendment petition has been annexed as Annexure- 1 to this application. The petitioners (plaintiffs) filed rejoinder to the said amendment petition on 08.07.2011. The court below after hearing both sides allowed the amendment petition as per order dated 17.01.2012. The amendments relate to correction of parentage of Sheo Govind Sah as son of Raj Kumar Sah. The said Raj Kumar Sah has been wrongly mentioned as son of Sheo Govind Sah



in the written statement. The court below while passing the impugned order has written that the plaintiffs’ petition dated 20.06.2011 is allowed on payment of cost to the tune of Rs. 500/- and the plaintiffs were directed to amend the plaint. This is apparently gross error on the part of the court below. The amendment petition was actually filed by the defendants for amending the written statement and so, the court below should have directed the defendants to amend the written statement. The learned counsel for the respondents does not dispute this fact. The proposed amendment is simple in nature and only relates to certain clarification as regards genealogy given in the written statement.

4. With the above observation, this civil writ application is disposed of and the matter is remitted to the court below for making necessary correction. This civil writ application is accordingly disposed of.

(Sanjay Kumar, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.11.2017
Transmission Date	NA

