

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5456 of 2011**

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Abhay Kumar

.... .... Petitioner

Versus

Vinod Kumar & Ors

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Narendra Kumar, Advocate

For Respondent no.1 : Mr. Jyoti Shankar, Advocate

Mr. Pradeep Kr.Sinha, Advocate

For Respondent no.9 : Mr. Arvind Kr.Tiwary, Advocate

Mr. Manoj Kr. Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**  
**ORAL ORDER**

9      15-11-2017      The present petitioner is plaintiff of Title Suit No.129 of 1995, which was filed for declaration of two sale deeds dated 28.04.1995 executed in favour of defendant nos.4 and 10 as forged, fabricated, void and ineffective documents. The plaintiff further sought relief for recovery of possession after removing structure from the land mentioned in Schedule II of the plaint. During trial he filed an application for some amendment in the plaint which was rejected by Munsif-IV, Chapra as per impugned order dated 12.03.2008.

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

3. The plaintiff-petitioner and respondents except respondent no.9 are descendents of common ancestor. The case of plaintiff is that the land measuring 4 katha and 17 dhoors



mentioned in Schedule I of the plaint is the joint family property in which share of plaintiff is to the extent of  $1/8^{\text{th}}$ . Defendant nos.1 and 2 are full brothers of the plaintiff and they executed two sale deeds in favour of defendant no.4 and defendant no.10. The defendant no.1 executed sale deed on 28.04.1995 in favour of his sister defendant no.4 for an area measuring 2 katha and 7 dhoor. Similarly defendant no.2 executed sale deed on the same day with respect of 2 katha 8 dhoor land in favour of defendant no.10 who is stranger to the family. The plaintiff filed a petition for injunction restraining the defendants from making any construction over the suit land. The said injunction petition was allowed on 14.10.1996 and the purchaser defendants were restrained from making any construction over their respective land. The defendants filed an appeal before the District Judge, which after hearing, was dismissed on 14.09.1998. Subsequently the suit of the plaintiff was dismissed for default and after dismissal of the suit, the defendants dispossessed the plaintiff from the entire land. The plaintiff in order to bring this fact on record has filed an amendment application. The defendants filed rejoinder. The court below after hearing the parties rejected the amendment application.

4. On going through the application filed for



amendment, I find that almost all the facts which are sought to be brought on record by way of amending the plaint are already pleaded in the plaint. The plaintiff has already pleaded as regards making construction by the defendants over the suit land. The proposed amendment is nothing but the repetition of the same fact. The court below has rightly rejected the amendment application. From the copy of the plaint which has been annexed with this application, it appears that the plaintiff has already sought relief for recovery of possession over the land mentioned in Schedule II of the plaint, which is covered by the two sale deeds. Therefore, the petitioner does not suffer in any way on account of rejection of amendment petition.

5. In view of the above fact, I do not find any merit in this application. Accordingly, this writ application is dismissed.

**(Sanjay Kumar, J)**

Harish/-

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