

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4554 of 2011

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Santosh Kumar Singh, S/O Late Jagdish Singh, R/O Village Bhelai, P.O.
and P.S. Udwant Nagar, Distt.-Bhojpur.

.... Petitioner

Versus

1. Sushila Devi, W/O Ram Kumar Singh, R/O Village-Lahang Dumariya,
P.O. and P.S.Behiya, Distt.-Bhojpur, At Present Mohalla Eastern Gate
Jain College, Arrah, P.S. Arrah Nawada, Distt.Bhojpur.

.....Respondent 1st set

2. Ramsingani Devi, D/O Late Jagdish Singh, R/O Village-Bhelai, P.O. and
P.S.-Udwant Nagar, Distt.-Bhojpur.

3. Usha Devi, D/O Late Jagdish Singh R/O Village-Bhelai, P.O. and P.S.-
Udwant Nagar, Distt.-Bhojpur.

.... Respondent 2nd Set

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Appearance :

For the Petitioner : Mr. Ashok Kumar, Advocate

For Respondent nos.3 and 4 : Mr. Gopal Govind Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

7 22-11-2017 The petitioner is defendant of Title Suit No.350 of 2000

pending in the Court of Subordinate Judge-IV, Bhojpur at Arrah.

He has filed this application for quashing the order dated
09.12.2010 whereby and whereunder the learned court below
rejected the petition of the petitioner and refused to stay hearing of
Title Suit No.350 of 2000 till the disposal of the earlier instituted
suit bearing Title Suit No.163 of 1991.

2. Respondent no.1 has filed the aforesaid Title Suit
No.350 of 2000 before the Court of Subordinate Judge 1st for
partition of suit property mentioned in Schedule of the plaint. The
respondent claimed her title over the suit property on the basis of



deed of gift dated 07.09.1991 and a Will executed by one Dhana Kuer in her favour. The defendant, Jagdish Singh has also filed a Title Suit No.163 of 1991 before the Court of Munsif-III, Arrah challenging the deed of gift executed by Dhana Kuer in favour of plaintiff of Title Suit No.350 of 2000 as forged and fabricated document. The plaintiff of Title Suit No.350 of 2000 appeared in Title Suit No.163 of 1991 and filed written statement. The present petitioner has been impleaded as intervener defendant in Title Suit No.350 of 2000.

3. Title Suit No.163 of 1991, presently pending in the Court of Execution Munsif, Bhojpur at Arrah, is at the stage of argument. The plaintiff of Title Suit No.350 of 2000 has also sought partition claiming more share on the basis of registered deed of gift and Will executed by Dhana Kuer. Thus, I find that in both the suits an issue relating to declaration with respect to deed of gift as forged and fabricated has been framed. If both the suits are tried by two different Courts, there is a possibility of being contradictory finding on the deed of gift. So in the interest of justice, both the suits are required to be adjudicated by one and the same Court. Title Suit No.350 of 2000 is presently pending in the Court of Subordinate Judge, which is superior to the Court of Munsif in pecuniary jurisdiction, where Title Suit No.163 of 1991



is pending. The court below while rejecting the petition has also observed that the issues involved in both the suits are same.

4. In view of the above facts the impugned order dated 09.12.2010 is set aside and the Title Suit No.163 of 1991 pending in the Court of Execution Munsif, Bhojpur at Arrah is ordered to be tried by the Court where Title Suit No.350 of 2000 is pending.

5. With the aforesaid observation, this writ application is allowed.

(Sanjay Kumar, J)

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