

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3621 of 2013

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1. Vimal Kumar Mishra @ Mahatam Mishra Son Of Late Ramawatar Mishra Resident Of Village - Mala, Police Station - Chapra Muffasil, District - Saran (Chapra)
2. Tribhuwan Kumar Mishra Son Of Late Ramawatar Mishra Resident Of Village - Mala, Police Station - Chapra Muffasil, District - Saran (Chapra)

.... Petitioners

Versus

1. Nagina Rai S/O Late Sukhdeo Rai Resident Of Mauza, Bara Telpa, Pargana - Chirand, P.S. - Chapra Town, P.O. - Chapra, District - Saran (Chapra)
2. Ramji Rai @ Dasrath Rai S/o Late Parma Rai
3. Shambhu Rai S/O Late Parma Rai Resident Of Mauza, Bara Telpa, Pargana - Chirand, P.S. - Chapra Town, P.O. - Chapra, District - Saran (Chapra)
4. Suresh Rai S/O Late Parma Rai Resident Of Mauza, Bara Telpa, Pargana - Chirand, P.S. - Chapra Town, P.O. - Chapra, District - Saran (Chapra)
5. Raju Rai S/O Late Parma Rai Resident Of Mauza, Bara Telpa, Pargana - Chirand, P.S. - Chapra Town, P.O. - Chapra, District - Saran (Chapra)
6. Ram Pravesh Rai S/O Late Ramanand Rai Resident Of Mauza, Bara Telpa, Pargana - Chirand, P.S. - Chapra Town, P.O. - Chapra, District - Saran (Chapra)
7. Krishna Rai S/O Late Ramanand Rai Resident Of Mauza, Bara Telpa, Pargana - Chirand, P.S. - Chapra Town, P.O. - Chapra, District - Saran (Chapra)
8. Dharm Nath Rai S/O Late Ramanand Rai Resident Of Mauza, Bara Telpa, Pargana - Chirand, P.S. - Chapra Town, P.O. - Chapra, District - Saran (Chapra)
9. Laxman Rai S/O Late Ramanand Rai Resident Of Mauza, Bara Telpa, Pargana - Chirand, P.S. - Chapra Town, P.O. - Chapra, District - Saran (Chapra)
10. Satya Narayan Rai S/O Late Ramanand Rai Resident Of Mauza, Bara Telpa, Pargana - Chirand, P.S. - Chapra Town, P.O. - Chapra, District - Saran (Chapra)

.... Respondents

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Appearance :

For the Petitioner/s : Mr. RAMA NAND PODDAR

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 04-02-2017

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

The prayer in this application is to quash the
impugned order by which the amendment as prayed by the plaintiff in



the plaint has been refused.

The learned senior counsel for the petitioners has submitted that in the relief no.2 of the plaint, the plaintiff has already prayed for recovery of possession in case of dispossession besides praying for confirmation of possession. The learned senior counsel has also pointed out the paragraph-5 of this application where the said relief has been quoted.

It appears from the impugned order as well as materials on record that the prayer for amendment has been made for including the relief for recovery of possession. The learned counsel for the respondents has also accepted the said position and has not disputed the averments made in paragraph-5 of the application.

In that view of the matter, this Court comes to the conclusion that the amendment sought for by the plaintiff is clearly frivolous in nature as the relief for recovery of possession in case of dispossession is already there in the plaint.

In this backdrop, this Court does not find it a fit case for invoking the jurisdiction under Article 227 of the Constitution of India.

The application is accordingly dismissed.

(V. Nath, J)

Nitesh/-

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