

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.214 of 2016

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1. Birendra Singh,
2. Harihar Singh, Both sons of Late Bachu Singh, residents of Mathlohiyar,
P.S. Harsidhi, P.O. Mathlohiyar, District - East Champaran

.... Petitioners

Versus

1. Loha Singh Son of Munshi Singh Residents of village & P.O. Bahurupia,
P.S. Turkauliya, District - East Champaran.
2. Sharda Devi daughter of Munshi Singh and wife of Ramanand Singh
resident of village & post Gaighat, P.S. Harsidhi, District - East Champaran.
3. Urmila Devi daughter of Munshi Singh and wife of Ramnaresh Singh
resident of Majhar, P.O. & P.S. Turkauliya, District - East Champaran.
4. Sabita Devi daughter of Munshi Singh and wife of Dinesh Singh resident
of Jaisinghpur, Tola Rajpur, P.O. Khirwa Bazar, P.S. Turkauliya, District -
East Champaran.
5. Pramod Singh
6. Dilip Kumar
7. Sharma Singh
8. Sandeep Singh
9. Sanjeev Kumar, All sons of Late Sukhdeo Singh, All residents of village
- Ramnagar, Post Gaighat, P.S. Harsidhi, District - East Champaran.
10. Madan Singh
11. Balmukund Singh, Both sons of Late Ramsakal Singh, residents of
Ramnagar, Post Gaighat, P.S. Harsidhi, District - East Champaran.

.... Respondents

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Appearance :

For the Petitioners : Mr. Kumar Uday Singh, Adv.

For Respondents 2 to 5 : Mr. M/S Vijay Shanker Srivastava & Nisha
Verma, Advs.

For Respondents 6 to 10 : Mr. Ranjan Kumar Dubey, Adv.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**

ORAL ORDER

5 24-11-2017

Heard the parties.

The petitioners filed this civil miscellaneous petition against the order, dated 09.03.2016, by which the petition of the petitioners filed under Order 1 Rule 10 read with Section 151 of the Civil Procedure Code by which the Sub Judge, Areraj, East Champaran, dismissed the petition filed in Title Suit No. 532 of 2015 for impleading them as defendants.

The plaintiffs filed the suit for declaration of title with regard to the land mentioned in Schedule I of the plaint and for declaration of gift deed, dated 22.05.2014, illegal and not binding.

Admittedly, Shingheshwar Mahto and Shiv Dhari



Mahto were two brothers. Plaintiffs-respondents are descendants of Singheshwar Mahto. The petitioners are descendants of Shiv Dhari Mahto and sons of Bachhu Mahto. Bipin Mahto, brother of Bachhu Mahto died issueless. This is admitted case of both the sides that there was a partition between the two brothers, namely, Singheshwar Mahto and Shiv Dhari Mahto. The petitioners filed the petition for their impleadment as defendants in the suit on the ground that some of the lands which had fallen in their service have also been included in Schedule I of the plaint, but, it appears from the perusal of the plaint and the petition of the petitioners that the petitioners have not stated anywhere that which lands, mentioned in Schedule I of the plaint, fell in their share. They have also not produced any document to show that the lands mentioned in Schedule I of the plaint fell in their share in the partition took place between Singheshwar Mahto and Shiv Dhari Mahto. It is needless to say that the plaintiff is master of his own plaint and on the facts he may seek relief against the defendants. The plaintiff did not seek any relief in the plaint from the petitioners, who filed petition for their impleadment. Petitioners have not been able to show that the petitioners are, at all, required to be impleaded in the suit. It goes without saying that the judgment and decree in the suit in which the petitioners are not party shall not be binding on them.

Having considering the facts, aforesaid, I do not find any merit in the civil miscellaneous application and the same is **dismissed**.

(Prabhat Kumar Jha, J)

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