

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.97 of 2016

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1. Premjit Singh.
 2. Madanjeet Singh.
All sons of Late Ram Sarekh Singh, All resident of Village-Bishunpura,
P.O.Bishunpura, District-Patna.

.... Petitioners

Versus

1. Lallan Singh, Son of Achhe Kumar Singh, resident of Village-Bajitpur, P.O.-
Bajitpur, P.S.-Bihta, District-Patna.
2. Ram Mahesh Singh Son of Late Kundal Singh.
3. Ranjeet Singh Son of Late Ram Sarekh Singh.
Both resident of Bishunpura, P.O.Bishunpura, District-Patna.
4. Ashok Lal Son of Late Akhilanand Prasad, Resident of Village- Bajitpur, P.O.-
Bajitpur, P.S.-Bihta, District-Patna.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Kumar Uday Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 17-04-2017

Heard Mr.Kumar Uday Singh, learned counsel
appearing for the petitioners.

This revision application has been filed against the
impugned order by which the learned court below has rejected the
petition filed by the defendant-petitioners praying for rejection of the
plaint under Order 7 Rule 11 C.P.C. The suit has been filed by the
plaintiff-opposite party no.1 for declaration of title over the suit land
with further declaration that the two sale deeds dated 05.03.1974
executed by Brij Bala Singh in favour of Kundal Singh with regard to
the Schedule-II land which is part of Schedule-I land are illegal, null



and void. The defendants have filed their written statement wherein they took specific plea that the vendor of the defendants acquired title over the suit property through purchase from predecessor-in-interest of the plaintiff. The defendants have claimed their right, title and interest on the basis of the sale deeds dated 05.03.1974 whose legal validity they have asserted. During the pendency of the suit, the defendants have filed the petition praying for rejection of the plaint on the ground that the plaintiff has suppressed the material facts particularly the fact regarding the earlier sale deed in favour of the vendor of the defendants and also on the ground that the suit is barred by limitation in view of the challenge to the sale deed of the year 1974 in the suit filed in the year 2013.

After considering the submissions, materials on record and the impugned order, it is manifest that the plaintiff has come out with the case of acquisition of right, title and interest of the suit land described in Schedule-I of the plaint. The plaintiffs have further stated that they have got the knowledge of the two sale deeds dated 05.03.1974 in favour of the defendants only in the year 2012. After stating the facts and the cause of action for filing the suit, the plaintiffs have filed the suit for the aforementioned reliefs.

Mr. Singh, learned counsel appearing for the petitioners has emphatically submitted that the plaintiffs suit is only



vexatious and intended to harass the defendant-petitioners as the fact of the sale deed by the predecessor-in-interest of the plaintiff in favour of the vendor of the defendants has been disclosed long back in the written statement filed by the defendant-petitioners but the plaintiff has not come out with any replication or has not sought any relief in that regard up-till-now. Referring to the legal notice as well as the averments made in the sale deeds including the deed in the year 1980 executed by the mother of the plaintiff for some land other than the suit land in favour of the defendants, it has been further canvassed that these facts disclose the knowledge to the plaintiff of the title of the defendants over the suit land and clearly establish the malafide intention of the plaintiff . It has also been submitted that as the plaintiff has not come with any reply to the written statement so far, the plaint is fit to be rejected on this score alone as it is evidently an abuse of the process of the court.

The principle with regard to the rejection of plaint under Order 7 Rule 11 C.P.C has been reiterated in the recent judgment of the apex court in the case ***of Kuldeep Singh Pathania Vs.Bikram Singh Jaryal, 2017(1)PLJR(SC)484*** where their lordships have laid down as follows:-

“...But that is not the situation as far as the enquiry under Order VII Rule 11 is



concerned. That is only on institutional defects. The court can only see whether the plaint, or rather the pleadings of the plaintiff, constitute a cause of action. In other words, under Order VII Rule 11, the court has to take a decision looking at the pleadings of the plaintiff only and not on the rebuttal made by the defendant or any other materials produced by the defendant....”

The submissions on behalf of the petitioners therefore have no substance on the anvil of the dictum as laid down by the apex court. The pleadings of the defendants or for that matter, the materials produced by the defendant-petitioners could not have been the basis for rejection of the plaint as envisaged under Order 7 Rule 11 C.P.C. As such, this Court does not find that the learned court below has committed error of jurisdiction or material irregularity in passing the impugned order.

The revision application is, accordingly, dismissed.

(V. Nath, J)

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