

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14559 of 2013

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1. Ramadhar Singh Son Of Late Ramjanam Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
 2. Mithlesh Singh Son Of Late Ramjanam Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
 3. Lalita Devi Wife Of Late Ramswaroop Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad

.... Petitioners

Versus

1. Most. Lilawati Devi @ Lilawati Kuer Wife Of Late Kaheshwar Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
2. Rajiv Kumar Singh @ Pawan Kumar Singh Son Of Late Kaheshwar Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
3. Sanjiv Kumar Singh @ Raman Kumar Singh Son Of Late Kaheshwar Singh Resident Of Village - Saleya Karma
4. Ranjit Kumar Singh @ Risu Kumar Singh Son Of Late Kaheshwar Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
5. Sanjit Kumar Singh Son Of Late Kaheshwar Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
6. Hirajee Singh @ Ram Narayan Singh Son Of Late Ram Lakhan Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
7. Dhrub Kumar Singh Son Of Late Ram Lakhan Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
8. Pancham Kumar Singh Son Of Late Ram Lakhan Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
9. Dhananjay Kumar Singh Son Of Late Ram Lakhan Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
10. Raghbendar Singh @ Ravi Son Of Late Ram Lakhan Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
11. Vivek Kumar Singh Son Of Late Ram Lakhan Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
12. Suman Devi Wife Of Late Dhirendra Kumar Singh Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
13. Suraj Minor Son Of Late Dhirendra Kumar Singh Under Guardianship Of His Mother And Next Friend Suman Devi Resident Of Village - Saleya Karma, Police Station - Nabi Nagar, District - Aurangabad
14. Kailash Singh Husband Of Late Sumita Devi Resident Of R.P.S. More, Judges Colony, Danapur, Patna
15. Madhusudan Singh Son Of Late Raj Kumar Singh And Husband Of Late Kaushaliya Devi Resident Of Village - Sori, P.O. - Sori, Police



Station - Mali, District - Aurangabad

16. Smt. Sita Devi Wife Of Sri Surendra Singh Resident Of Village, Rajpur,
P.O. Rambilash Nagar, Police Station And District - Aurangabad

17. Smt. Urmila Devi Wife Of Sri Sheo Kumar Singh Resident Of Village +
P.O. Pipra Bajahi, Police Station - Kutumba, District - Aurangabad

.... Respondents

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Appearance :

For the Petitioners : Mr. Rajendra Narayan, Sr. Advocate

For the Respondents : Mr. Abhishek, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

3 08-01-2018 This application has been filed to set aside the order dated 11.07.2013 passed by learned Sub Judge-I, Aurangabad in Title Suit No.363 of 2007 whereby and whereunder the prayer to amend the plaint filed by respondent was allowed and two plots were ordered to be added in the plaint.

2. Heard learned counsel for the petitioners as well as the respondents.

3. It appears that the respondent plaintiff filed Title Suit No.363 of 2007 claiming 1/3rd share in the suit property described in schedule-2 of the plaint. They further sought relief to declare that the decree dated 02.08.1988 passed by Sub Judge-Ist in Partition Suit No.57 of 1984 as null and void and not binding on the plaintiffs. The learned counsel for the petitioners submits that the entire suit property were partitioned among the co-sharer in the year 1998 as per compromise decree passed in Partition Suit No.57 of 1984. Both the parties as per compromise decree came in



possession over their respective share and also got their name mutated in circle office. The government has recently taken steps for acquisition of land around Aurangabad for the project of NTPC and in the said acquisition proceedings two plots were acquired by the government for which compensation was granted in favour of the petitioners. The said compensation amount caused heart burning to the respondents and so they have filed the present partition suit with the false and frivolous allegation. The learned counsel for the respondents on the other hand submits that they had no knowledge about the said partition suit on the strength of which the petitioners are claiming their exclusive right and title.

4. Be that as it may. It is not in dispute that both the parties are/were co-sharers. The respondent first party has filed title Suit No.363 of 2007 with respect to immovable property which was the subject matter of Partition Suit No.57 of 1984. The said suit was compromised by the ancestors of both the parties. The respondent/plaintiff filed an amendment petition adding two plots which were also the subject matter of said Partition Suit No.57 of 1984. The plaintiffs have further challenged the compromise decree which was passed in Partition Suit No.57 of 1984 and so the petitioners is not prejudiced by the said amendment as they have already taken plea of earlier partition. The court below has



not committed any jurisdictional error in allowing the amendment petition particularly in view of the fact that these two plots were also subject matter of partition in earlier Partition Suit No.57 of 1984 which has been challenged in the present suit.

5. In view of the above facts, I do not find any merit in this application. This application is accordingly dismissed.

(Sanjay Kumar, J)

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