

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12469 of 2014

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1. Sumant Singh Son of Late Laxman Singh, Resident of Village - Ram Nagar, P.O.
- Ram Nagar, P.S. - Khudawa, District - Aurangabad (Bihar).

.... Petitioner/s

Versus

1. Smt. Singari Devi Wife of Sri Madan Saw.
2. Madan Saw Son of Late Raghunandan Saw.
Both are resident of Village - Ram Nagar, P.O. Ram Nagar, P.S. - Khudawa,
District - Aurangabad (Bihar).
3. Sanjay Singh Son of Late Gopal Singh.
4. Ajay Singh Son of Late Gopal Singh.
Sl. No. 3 & 4 are resident of Village - Ram Nagar, P.O. - Ram Nagar, P.S. –
Khudawa, District - Aurangabad (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Kumar Dipak, Adv.

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 09-03-2018

This application has been filed by the plaintiff of Title
Suit No. 208 of 2011 pending in the court of Sub-Judge-III,
Aurangabad. The learned court below, as per impugned order dated
18.06.2014, refused to allow the withdrawal petition filed by the
petitioner holding that the application was not maintainable.

2. Heard learned counsel for the petitioner. Nobody
appeared for the respondents.

3. It appears that the plaintiff filed the aforesaid Title
Suit No. 208 of 2011 against the respondents for declaration that the
Sale Deed no. 981 dated 16.03.2011 alleged to have been executed by



him in favour of respondent no. 1 is void, illegal and not binding on him. The suit property was acquired with the aid of joint family fund under the Karta-ship of Laxman Singh. The land was partitioned and it was divided in three equal shares. Subsequently, the plaintiff filed a petition under Order 23 Rule 1 of Code of Civil Procedure for withdrawal of the said suit in view of compromise between the plaintiff and respondent 1st set. The respondent 2nd set being intervenor filed a rejoinder to the said petition and objected the withdrawal. The court below after hearing both sides, rejected the withdrawal petition.

4. On perusal of impugned order and the statement made in the application I find that the suit was filed for declaration with respect to a document which was executed by the plaintiff in favour of respondent 1st set. Subsequently, both the parties entered into compromise and in view of compromise, the petitioner filed a petition to withdraw the said suit. The intervenor-defendant filed a petition claiming his right title and interest in the said property. The court below while passing the impugned order, has observed that the plaintiff wants to revert back from his own statement given in the plaint and so the withdrawal petition is not maintainable.

5. Be that as it may. The plaintiff admittedly has compromised the suit and in view of compromise he does not want to



proceed with his case. The plaintiff has not sought any relief against the intervenor-defendant and so the intervenor-defendant is at liberty to file a suit for any relief against the plaintiff or any of the defendant. The plaintiff can't be compelled to continue the suit when has already settled the dispute with the contesting defendant.

6. In the above facts, the impugned order refusing to grant permission to the petitioner to withdraw the suit is not sustainable and is set aside and this application is allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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