

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4058 of 2014

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Shanti Devi Wife of Shankar Prasad, D/O Baijnath Bhagat, Resident of Village - Sultanpur, At Present Village - Amahara, Police Station - Raghunathpur, District – Siwan.

.... Petitioner

Versus

1. Raj Balam Bhagat Son of Ram Sakal Bhagat
2. Manaki Devi Wife of Rajeshwar Bhagat
Both Resident of Village - Kishahara, Post Office Nandpur Amwari, Police Station - Andar, District – Siwan.
3. Baijnath Bhagat S/O Late Fakira Bhagat
4. Rajmatia Devi W/O Baijnath Bhagat
Both of Village - Amahara, P.S. Raghunathpur, District – Siwan.

.... Respondents

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Appearance :

For the Petitioner : Mr. Raghav Prasad, Advocate
For the Respondents :

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

4 25-01-2018 This writ application has been filed to set aside the order dated 01.11.2013 passed by Additional District Judge-I, Siwan in Title Appeal No.111 of 1997. The court below as per impugned order has refused to amend the plaint at the appellate stage.

2. Heard learned counsel for the petitioner.

3. It appears that the petitioner filed the aforesaid title suit against her full sister and father for declaration that the registered sale deed and deed of gift executed by her father (defendant no.3) in favour of defendant nos.1 and 2 as fraudulent, illegal and void. The suit was dismissed on 25.09.1997 after



contest. The plaintiff, who is petitioner before this court, being aggrieved by judgment filed Title Appeal No.111 of 1997. She filed an amendment petition on 19.05.2006 for amending the plaint. The petitioner wants to add one more relief as regards the declaration of her right and title over the suit property on the strength of registered deed of gift dated 13.06.1989 which was executed in her favour by her father. She further wants to add some facts as regards her dispossession from the suit land and also to amend relief portion by adding one more relief for recovery of possession over the suit property. The court below while rejecting the amendment petition has observed that the suit was decreed on 25.09.1997 and amendment petition has been filed at a belated stage. The plaintiff after a lapse of nine years of dismissal of suit has prayed for amendment of plaint by introducing new relief of recovery of possession as well as declaration of her title on the strength of her deed of gift. During pendency of the suit, she was allegedly dispossessed but no step of recovery was taken by him. The court below has rightly observed that the proposed amendment would change the nature of the suit which is not permissible at the appellate stage. The court below has not committed any illegality in refusing to amend the plaint at appellate stage.



4. In view of discussions made above I do not find any merit in this application and the same is, accordingly, dismissed.

Harish/-

(Sanjay Kumar, J)

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