

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.160 of 2015

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1. Anil Yadav Son of Late Baijnath Yadav
 2. Bishwanath Yadav
 3. Bishundeo Yadav, both sons of Late Sri Sitaram Yadav
 4. Asharfi Rai son of Late Jamuna Rai
 5. Santosh kumar son of Sri Asharfi Rai, all are residents of Tekari Road, Pathar Ki Maszid, P.S- Sultanganj, Patna City, District - Patna.
 6. Mamta Kumari wife of Sri Pappu Yadav, resident of Ghogha Ghat, P.S- Sultanganj, District - Patna.

.... Petitioner/s

Versus

Sri Ramadhar Sharma son of Sri Surajdeo Sharma, resident of mohalla - Bhagirathi Mahendru, P.S- Sultanganj, District - Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s. Birju Prasad & Ashok Kumar, Advs.

For the Respondent/s : Mr. Rohit Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 12-09-2018

Petitioners before this Court are defendants in Title Suit No. 149 of 2002 pending in the court of Sub-Judge-V, Patna City. They have filed this writ application for quashing the order dated 17.10.2014 whereby and whereunder the amendment petition filed for amending the written statement was rejected.

2. Heard learned counsel for the petitioners as well as the respondent and perused the record.

3. The respondent filed the aforesaid suit for declaration of right, title and possession over the land mentioned in schedule-I of the plaint on the basis of Power of Attorney dated 19.12.2001



executed by Raj Kumar Raghwendra Prasad Narain Singh and others. The defendants appeared and filed their written statement on 28.03.2003. The court framed issue on 10.06.2011. After closing the evidence of both the parties, when the case was pending for argument, these petitioners filed an amendment petition for adding one more para as para 8 to this effect that during the pendency of the suit, the Principal namely Raj Kumar Raghwendra Prasad Narain Singh and others cancelled the Power of Attorney and informed about this fact to the agent attorney holder who is plaintiff before the court below. The information regarding cancellation of Power of Attorney was also published in daily newspaper "Hindustan" on 10.12.2006. After cancellation of Power of Attorney, the agent (attorney) had or has no right to proceed with the suit.

4. It has been submitted that the petitioners got knowledge about the cancellation of Power of Attorney during the pendency of the suit. The written statement was filed in the year 2003 and the Power of Attorney was subsequently cancelled. The respondent has not denied this fact in his rejoinder filed before the court below. The said amendment does not prejudice the respondent in any way and so the same is fit to be allowed. The learned counsel for the respondent on the other hand submitted that the said amendment petition has been filed after much delay and so the same



has been rightly rejected.

5. On going through the impugned order and documents on record, I find that necessity of filing amendment petition arose to the petitioners after filing of written statement. The respondent has not denied the assertion of the petitioners regarding cancellation of Power of Attorney. The said amendment if allowed would not prejudice the respondent in any way and it would not require further evidence as submitted by learned counsel for the respondent.

6. In view of above discussion I am of the view that the impugned order refusing to amend the written statement is not sustainable. The impugned order is therefore set aside and this writ application is allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17/09/2018
Transmission Date	N/A

