

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14168 of 2014

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Bisheswar Yadav Son of Late Ramadhar Yadav, resident of village- Chotki Sandiya, P.S.- Ara (Mufassil), District- Bhojpur.

.... Petitioners

Versus

1. The Gram Katchary Chotki Sandiya ,P.S.- Ara (Mufassil), P.O.- Ratanpur, District- Bhojpur, through its Sarpanch.
2. The Panchyat Secretary, Gram Katchari Chotki Sandiya, P.S. - Ara (Mufassil), P.O.- Ratanpur, District- Bhojpur.
3. Udai Narayan Yadav Son of Late Ramadhar Yadav, resident of Chotki Sandhiya, P.S. ARa (Mufassil), District- Bhojpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. J.S. Arora, Sr. Advocate
Mr. Karandeep Kumar, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 02-05-2018

This writ application has been filed for setting aside the judgment dated 13.05.2014 passed by learned Subordinate Judge I, Bhojpur at Ara in Second Appeal No.02 of 2011 whereby and whereunder the appeal filed by the petitioner against the Full Bench order of Gram Kutchery as well as the order dated 06.08.2011 passed by Gram Kutchery has been dismissed.

2. Heard learned counsel for the petitioner and the respondents.

3. It has been submitted that the Gram Panchayat or the Full Bench of Gram Kutchery had no jurisdiction to entertain the case



filed by the respondent no.3 for partition of family property which was beyond its pecuniary jurisdiction. The respondent no.3 is full brother of the petitioner. The petitioner asserts that he had partitioned the entire property as per the memorandum of partition which has been annexed as Annexure I to this application. In the said memorandum of partition, the value of the house of the parties was assessed at Rs.2 lacs and the petitioner was directed to pay an amount of Rs.1 lac in addition to the property given to respondent no.3 in partition. The said order was upheld by Full Bench of Gram Kutchery and thereafter the petitioner filed second appeal before the Subordinate Judge. The court below dismissed the second appeal observing that no appeal was filed before the Full Bench of Gram Kutchery. The petitioner did not produce any order passed by Full Bench of Gram Kutchery. It has been submitted that the petitioner was not heard by Gram Kutchery. On the date of hearing, the son of the petitioner was allegedly present who had no authority to appoint any panch and Gram Kutchery without perusing the documents has passed the order dated 06.08.2011. From the copy of decree of court below, it appears that the value of suit property has been shown as Rs.2 lacs. The court below has not given any finding on the point of valuation which is undisputedly above ten thousand.

4. Thus, it appears that the Gram Kutchery had no



jurisdiction to entertain the case filed by the respondent no.3. The Gram Kutchery has exceeded its jurisdiction in deciding the case.

5. In view of above facts, the impugned order dismissing the second appeal as per order dated 13.05.2014 is set aside and this writ application is allowed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	05.05.2018
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