

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.28 of 2018**

1. Ramjee Giri, S/o Late Ramyatan Giri @ Ramratan Giri
 2. Smt. Rampati Giri, W/o Late Panchanand Giri
- Both residents of Teregana Math, P.O. and P.S.- Masaurhi,
District- Patna.

... .. Petitioners

Versus

1. Rameshwar Prasad Kesri
 2. Anand Lal Kesri @ Antu Prasad
 3. Shiv Shankar Prasad Kesri,
- All sons of Late Mangru Sao, Resident of Village- Masaurhi Bazar, Ganjpar,
Malikhana, P.S. Masaurhi, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Deepak Kumar Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 09-10-2018 Heard the learned counsel for the petitioners.

The petitioners have filed this civil miscellaneous petition against the order dated 22.08.2017, passed by learned Sub-Judge-I, Patna in Title Suit No.534 of 2015 by which the learned Sub-Judge dismissed the petition of the petitioner filed under Order VII Rule 11 of the Civil Procedure Code.

The petitioners are the defendants. The learned counsel for the petitioners submits that Plot No.1737 measuring 8 Katthas 3 Dhurs of Khata No.205, owned by Girja Kuer, Wife of Sri Kuldeep Sahay, Ram Kishore Rukhiyar and others and they were in possession of the property. Girja Kuer sole the portions of the aforesaid land measuring 10 Dhurs on



15.08.1935 to Bayash Ram. Bayash Ram got settlement of some land from the same plot from Ram Kishore Rukhiyar. The other defendants also got the lands by way of settlement but plaintiff claimed the title and possession over the land by virtue of sale deed. The sale deed was executed on 16.05.1929 and the statement of the plaintiff is false and concocted. The plaintiff has got no cause of action but on the face of the submissions of the learned counsel for the petitioners, I find that the same cannot be accepted. The plaintiff filed the suit for declaration of title over the dispute land by virtue of the sale deed. The defendant also claimed the title over the land but under Order VII Rule 11, the suit cannot be dismissed on such assertions of the defendant, therefore, I find that the learned Sub-Judge has rightly dismissed the petition of the petitioners.

Having considered the facts aforesaid, I do not find any merit in this civil miscellaneous petition. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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