

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4278 of 2011

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1. Ramjeet Sah Son of Late Suner Sah, resident of village + Post-Lachhanauta, Police Station-Gaunaha, District-West Champaran.
 2. Smt. Laxmina Devi Wife of Sri Ramjeet Sah, resident of village + Post-Lachhanauta, Police Station-Gaunaha, District-West Champaran.

.... Petitioner/s

Versus

1. Jitendra Sah Son of Late Sheo Prasad, resident of village + Post Office-Lachhanauta, Police Station-Gaunaha, District-West Champaran
2. Lal Babu Sah Son of Vindychal Sah, resident of village-Noniyawa Tola, Post Office-D.K. Shikarpur, Police Station-Shikarpur, District-West Champaran
3. Mukut Sah Son of Vindychal Sah, resident of village-Noniyawa Tola, Post Office-D.K. Shikarpur, Police Station-Shikarpur, District-West Champaran
4. Munni Lal Sah Son of Vindychal Sah, resident of village-Noniyawa Tola, Post Office-D.K. Shikarpur, Police Station-Shikarpur, District-West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiv Kumar Dwivedy, Adv.

For the Respondent/s : Mr. A.K. Shrivastava, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 20-04-2018

This application has been filed for setting aside the order dated 09.12.2010 passed by the court of Sub-Judge-I, Bettiah, West Champaran passed in Title Suit No. 142 of 2005 whereby and whereunder the amendment petition filed by the petitioners was rejected.

2. Heard learned counsels for the petitioners as well as the respondents.

3. It appears that the petitioners filed the aforesaid Title Suit No. 142 of 2005 for declaration of title and also that the



defendants have not acquired title on the basis of alleged sale deed purported to be executed by defendants 2nd set in favour of the defendant 1st set. The plaintiffs-petitioners further prayed to injunct the defendant 1st set from causing any interference in their possession.

4. The learned counsel for the petitioners submits that the defendant 1st set fraudulently got some sale deed executed in their favour and on the strength of said sale deed, they started causing interference in possession of the plaintiffs. The plaintiffs had no knowledge about the said sale deed and so they had prayed for declaration of their title. The defendants appeared and filed their written statement and at para 14 and 22 of their written statement, they disclosed that they acquired the suit property by virtue of two registered sale deeds executed by defendants 2nd party in their favour on 16.05.2005. The defendants were aware with the fact of the case. The proposed amendment is simple in nature and does not change the nature of suit and so the impugned order is fit to be set aside.

5. Learned counsel for the respondents on the other hand opposed the submission. It has been submitted that the plaintiffs filed the amendment petition after long delay only to prolong the suit.

6. On perusal of impugned order and documents on record I find that the suit is at initial stage of hearing and the trial of suit has not commenced. The plaintiffs have already sought relief for



declaration of their title and also for declaration that the defendants have not acquired any right title on the basis of any sale deed purported to be executed in their favour by defendants 2nd set. The proposed amendment is simple in nature in view of the fact that plaintiffs want to insert only date of sale deeds. This amendment does not change the nature of suit.

7. In view of above facts, the impugned order refusing to amend the plaint is set aside and this application is allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.04.2018
Transmission Date	

