

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14427 of 2010

- =====
1. Ramdeo Rai
 2. Maksudan Rai
 3. Dalchand Rai
 4. Ram Gulam Rai

All are sons of Late Sukh Lal Rai, resident of village-Balia, Intajeet,
P.S.Bochaha, P.O.- Unsar, Muzaaffarpur.

.... Petitioner/s

Versus

1. Ishwarwati Devi W/o Sakal Rai
2. Ram Pavittar Rai
3. Rangolla Devi W/o Ramesh Rai, All are sons and D/o Late Ram Binesh Rai,
R/v -Panchgachhia, Post Office- Maithi, Via- Gaighat, Distt.- Muzaaffarpur
4. Ram Ishwar Rai
5. Kishunwati Devi W/o Basudev Rai
6. Harish Chandra Rai
7. Shyam Kishore Singh S/o Late Asharfi Kumar, R/o village- Unsar, P.O.-Ansar,
P.S.-Bochaha, Distt-Muzaaffarpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : M/s Ashok Kumar Sinha and
Shyam Sunder Pandey, Adv.

For the Respondent/s : Mr. A. Akhtar and Arif Daula Siddique, Advs.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 01-10-2018

Petitioners before this Court are defendants of Title
Suit No. 325 of 1999. They have filed this writ application for
quashing the order dated 21.07.2010 passed by learned Sub-Judge-IV,
Muzaaffarpur whereby and whereunder petition for amending the
plaint filed by respondent no. 1 (plaintiff) was allowed.

2. Heard learned counsels for the petitioners as well as
the respondents and perused the record.



3. The original respondent no. 1-Ram Binesh Rai and his wife filed the aforesaid title suit against Asharfi Kuer and Shanti Devi for declaration and direction to the defendants to receive consideration money with respect to three registered sale deeds which were executed by them in their favour and to hand over the registration receipts to the plaintiffs. They further sought relief to put in possession over the land mentioned in schedule-I and II of the plaint. During the pendency of the suit, the original defendant nos. 1 and 2 sold the land to the petitioners and they were impleaded as defendant 2nd set as per order dated 13.08.2001. In course of trial, both the parties examined witnesses and in course of argument, the plaintiffs filed an amendment petition to amend the relief seeking direction to the subsequently added defendants 2nd party to put the plaintiffs in possession over the land mentioned in schedule-I and II of the plaint. The petitioners admittedly are purchasers, during the pendency of the suit. According to plaintiffs, these petitioners during the pendency of the suit, got the sale deed executed in their favour from the defendants and forcibly dispossessed them. The defendants are fully aware with the pleadings and relief as claimed by the plaintiffs. The plaintiffs have already sought relief against all the defendants for a direction to receive rest of consideration money with respect to registered sale deeds.



4. In course of hearing, the learned counsel for the respondents submitted that he will not examine any witness in support of their case and so in this view of the matter no prejudice would be caused to the intervenor-defendants. The suit has to be decided on the basis of evidence which has already come on record. The court below considering simple nature of amendment, has rightly allowed subject to payment of cost of Rs.2,500/- to the respondents.

5. In view of above discussions, I do not find any jurisdictional error in allowing the amendment petition. This application being devoid of merit is accordingly dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08/10/2018
Transmission Date	N/A

