

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9528 of 2010

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Subodh Kumar Ojha S/o Late Ram Shankar Ojha, resident of village - & P.O.Khabra @ Kiratpur Gurudas, P.S.Sadar, Distt-Muzaffarpur

.... Petitioner/s

Versus

1. Smt.Lakhpati Devi W/o Shyam Nandan Thakur, resident of village - Rohua, P.S. Waris Nagar, Distt-Samastipur at present residing at village & P.O.-Khabra @ Kiratpur Gurudas, P.S.Sadar, Distt-Muzaffarpur
2. Ram Krishna S/o Sri Kamlesh Thakur, resident of village - Rohua, P.S. Waris Nagar, Distt-Samastipur at present residing at village & P.O.Khabra @ Kiratpur Gurudas, P.S.Sadar, Distt-Muzaffarpur
3. Gopal Krishna S/o Sri Kamlesh Thakur, resident of village - Rohua, P.S. Waris Nagar, Distt-Samastipur at present residing at village & P.O.Khabra @ Kiratpur Gurudas, P.S. Sadar, Distt-Muzaffarpur
4. Binod Kumar S/o Late Ram Shankar Ojha, resident of village - & P.O. Khabra @ Kiratpur Gurudas, P.S.Sadar, Distt-Muzaffarpur
5. Amod Kumar S/o Late Ram Shankar Ojha, resident of village & P.O. Khabra @ Kiratpur Gurudas, P.S.Sadar, Distt-Muzaffarpur
6. Chanchala Devi D/o Late Ram Shankar Ojha, W/o Binay Kumar, resident of village - Bridhipur, P.O. Bharwari, P.S. Sakra, Distt-Muzaffarpur
7. Most. Sunita Kuer D/o Late Ram Shankar Ojha, & widow of Narayan Tiwary resident of village & P.O. Ram Karan Pakry, P.S.Kalyanpur, Distt-East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Pd.Singh, Adv.

For the Respondent/s : Mr. Sanjay Parasmani, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 01-10-2018

Petitioner before this Court is defendant in Title Suit No.25/1995 pending in the court of Execution Munsif, Muzaffarpur. He has filed this application for quashing the order dated 29.03.2010 whereby and whereunder his petition to decide the pecuniary jurisdiction of court was rejected.

2. Heard learned counsel for the petitioner as well as the



respondents and perused the record.

3. It appears that the respondent 1st set filed the aforesaid suit for declaration of their title and recovery of possession over the land described in schedule-I of the plaint and in alternative for recovery of possession with mense profit from the date of dispossession till recovery of possession. The defendant appeared and filed written statement. The court below framed issue and one of the issue is to the effect as to whether the suit has been properly valued and the court fee as paid is sufficient or not. The defendant filed a petition on 01.04.2009 praying therein to return the plaint under Order VII Rule 11 of Code of Civil Procedure on the ground of lack of pecuniary jurisdiction of the court. According to petitioner, the property in dispute is worth more than Rs.5,00,000/- (five lacs) and so the court below has no jurisdiction to entertain the suit.

4. On perusal of impugned order it appears that after settlement of issue, the plaintiffs have already examined most of their witnesses. The court below rejected the prayer of defendant observing that the defendant has also filed a suit before the court of Sub-Judge in which he has given similar valuation. The court below further observed that the issue of jurisdiction and valuation involves mixed question of law and fact and so it cannot be decided as preliminary issue and accordingly disposed of the petition.



5. The order of lower court in view of above facts does not suffer from any jurisdictional error requiring any interference. This application being devoid of merit is accordingly dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04/10/2018
Transmission Date	N/A

