

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7942 of 2010

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Jagdish Chandra Singh and Rames Chandra Singh, both are sons of Late Smt. Maheshwari Devi wife of Late Kameshwar Singh, R/O Village - Hichhapur, Pargana- Sonout, P.S.- Tekari(Konch), District- Gaya, At Present Mohalla- Shanker Sonar Lane Piparpanti, P.S.-Gaya, District-Gaya

.... Petitioner/s

Versus

1. Smt.Malti Devi, Widow Of Late Ram Naresh Singh, R/O Village - Hichhapur, Pergana-Sonout,P.S.-Tekari (Konch),District- Gaya, At Present Residing At 45 Colliery Colony, P.O.- 45 Tapin South P.S.- Charhi, District-Hazaribagh.
2. Shrawan Kumar, S/O Late Ram Naresh Singh, R/O Village - Hichhapur, Pergana-Sonout,P.S.-Tekari (Konch),District- Gaya, At Present Residing At 45 Colliery Colony, P.O.- 45 Tapin South P.S.- Charhi, District-Hazaribagh.
3. Sanjay Kumar, S/O Late Ram Naresh Singh, R/O Village - Hichhapur, Pergana-Sonout,P.S.-Tekari (Konch),District- Gaya, At Present Residing At 45 Colliery Colony, P.O.- 45 Tapin South P.S.- Charhi, District-Hazaribagh.
4. Rajiv Kumar, S/O Late Ram Naresh Singh, R/O Village - Hichhapur, Pergana-Sonout,P.S.-Tekari (Konch),District- Gaya, At Present Residing At 45 Colliery Colony, P.O.- 45 Tapin South P.S.- Charhi, District-Hazaribagh.
5. Mungeshwar Singh, S/O Late Janki Singh, R/O Village - Hichhapur, Pergana-Sonout,P.S.-Tekari (Konch),District- Gaya,
6. Smt. Mannu Devi, D/O Late Ram Naresh Singh, W/O Tej Narayan Singh, R/O Village-Bismania, Tola Dhusai, P.S.-Dona, District-Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigendra Kumar, Adv.
For the Respondent/s : Mr. Anil Kr. Sinha (GA-1)
Mr. Nikhil Kr. Agarwal, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 05-10-2018

This writ application has been filed for setting aside the order dated 29.03.2010 passed by Sub-Judge-VII, Gaya in P.S. No.88/98 whereby and whereunder petition filed by defendant to amend the written statement was rejected.

2. Heard learned counsels for the petitioner as well as



the respondents and perused the record.

3. On perusal of impugned order and documents on record, I find that the respondent nos. 1 to 4 filed the aforesaid partition suit against the defendants. The mother of these petitioners appeared and filed her written statement and denied the case of the plaintiffs. In course of trial, an amendment petition was filed to add one more paragraph as paragraph 13(A) in the written statement.

4. The case of the plaintiffs is that one Ram Naresh Singh-husband of plaintiff no. 1 and the father of plaintiff nos. 2 to 4 and father of these petitioners jointly purchased 3 Katha 5 Dhur land appertaining to plot nos. 7966 and 7967 by virtue of registered sale deeds dated 28.02.1962 both having equal share therein. The father of these petitioners subsequently purchased the share of Ram Naresh Singh on 10.06.1983 and became absolute owner of entire property. The plaintiffs deny the case of defendants as regards their purchase. The defendants claim to have their some more land adjoining to the disputed land which was acquired as per registered sale deed dated 09.04.1970. The said land is amalgamated with the suit land. The learned counsel for the petitioners submitted that the amendment petition has been filed in order to explain the nature of acquisition of other land which is amalgamated with the suit land. The court below rejected the petition observing that the amendment petition was filed



deliberately after long delay in order to prolong the disposal of the suit. According to respondents (plaintiffs) the facts mentioned in proposed amendment petition has no concern with the dispute and so the court below has rightly rejected the petition.

5. On going through the pleadings of both the parties and impugned order, I find that the case is at initial stage, as only five witnesses have been examined. The amendment appears simple in nature and if allowed, it will not prejudice the plaintiffs. The defendants only to explain their possession over the entire land which includes their earlier purchased land, want to introduce the said fact.

6. Considering the facts and circumstances of the case, the order refusing to amend the written statement is set aside and this writ application is allowed, subject to payment of cost of Rs.3,000/- to the plaintiffs before the court below.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09/10/2018
Transmission Date	N/A

