

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13095 of 2010

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Arjun Prasad S/o Kedar Prasad, Resident of Mohalla- Kalibagh, P.S. Bettiah,
District- West Champaran.

... .. Petitioner

Versus

1. Arun Kumar Barnawal S/o Kdear Prasad, Resident of Mohalla- Kalibagh,
P.S. Bettiah, District- West Champaran.
2. Dhruva Prasad
3. Binod Prasad
Both Sons of Kedar Prasad
4. Reshank Kumar minor son of Arjun Prasad through father guardian
5. Smt. Laxmi Devi W/o Arjun Prasad
All Residents of Kalibagh, P.S. Bettiah, District- West Champaran.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Ashutosh Tripathi, Advocate
For the Respondent/s	:	Dr. Amrendra Kumar No.1, Advocate
		Mr. Manish Rai Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 19-12-2018

Petitioner is defendant no.4 in Title Suit No.247 of 2009 pending in the court of Subordinate Judge III, Bettiah, West Champaran. He has filed this writ application for quashing the order dated 13.07.2010 whereby and whereunder his objection against the valuation report of Sheristedar and prayer to direct the plaintiff to pay ad-valorem court fee over the suit property according to market value was rejected.



2. Heard learned counsel for the petitioner and the respondents.

3. It appears that the respondent no.1 filed the aforesaid suit for declaration that three registered deeds of gift executed by his father in favour of defendant nos.4, 5 and 6 as illegal, fraudulent and void document. The suit property admittedly is coparcenary property. The father of plaintiff got the same from his brother in partition held in the year 1952. According to the case of plaintiff, his father was ill and confined to bed since last two or three years and during his illness the defendant fraudulently brought into existence the said three registered deeds of gift executed by a different person impersonating him as Kedar Prasad. The plaintiff claims that his father had neither right to execute any document with respect to coparcenary property nor he had executed any document and so the said documents are not binding on the plaintiff. The nature of suit is purely a declaratory suit and he has not sought any relief as regards possession. The Office Sheristedar has accordingly submitted report on the point of valuation. The learned court below considering the declaratory nature of suit has rightly rejected his prayer. The petitioner will have an opportunity to get the valuation matter decided during trial



as the valuation involves mixed question of law of fact on account of suit property being coparcenary property.

4. In view of above facts, I do not find any merit in this writ application and is accordingly dismissed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	20.12.2018
Transmission Date	

