

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15398 of 2014

=====

1. Ashok Paswan son of Late Basudeo Paswan
2. Baba Dai widow of Late Basudeo Paswan
Both are residents of Bari Keshopur, P.O.+ P.S.- Jamalpur, District- Munger.
3. Nirmala Devi daughter of Late Basudeo Paswan, resident of Mohalla- Bari Keshopur, P.O.+ P.S. Jamalpur, District- Munger.
4. Bimla Devi daughter of Late Basudeo Paswan and W/o Umesh Paswan, resident of Binda Diyara, P.O.+ P.S. Bariapur, District- Munger.

.... Petitioners

Versus

1. Rabindra Paswan son of Bhola Paswan
2. Lakshmi Paswan son of Bhola Paswan
All are residents of Mohalla Bari Keshopur, P.O.+ P.S. Jamalpur, District- Munger.
3. Vijay Paswan, son of Late Arjun Paswan, resident of Bari Keshopur, P.O. and P.S. - Jamalpur, District – Munger.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Paswan, Advocate
For the Respondent/s : Mr. Dhirendra Nath Jha, Advocate
Mr. Sunil Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 19-06-2018

Heard learned counsel for the petitioners and the respondents.

2. The petitioners are defendants of Title (Partition) Suit No.46 of 1997 pending in the court of Subordinate Judge I, Munger. They have filed this writ application for quashing the order dated 21.07.2014 passed by learned court below whereby and whereunder the amendment petition filed by plaintiffs-respondents was allowed and the land measuring 1 katha comprised in plot no.7650 (a, b) with its boundary was added in Schedule 2 of the plaint. The plaintiffs



claim the said land as their acquired with the aid of joint family fund and they claimed half share in the same. The learned court below allowed the amendment observing that the claim of defendants that the said property was their exclusive property would be adjudicated at the time of trial. The said amendment appears formal in nature and does not change the nature of the suit. The court below has rightly observed that the dispute as to whether the said land is joint family property or the personal property of the defendant would be decided at the time of trial and in this view of the matter, the defendants are not prejudiced in any way. The court below has given liberty to the petitioners to file additional written statement with respect to amended plaint.

3. 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	22.06.2018
Transmission Date	

