

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12919 of 2015

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Edward David Natal son of David Joseph Natal Permanent resident of Mohalla christian Quarter , ward No. 8 ,P.o & P.s Bettiah, Dist West Champaran at present residing at 23, A.K. Md. Siddique Lane, Kolkata 16, West Bengal.

... .. Petitioner/s

Versus

1. Banshidhar Dubey S/o late Baijnath Dubey resident of Village baikunthwa, P.o. Kujlahi, P.s Nautan ,Dist- West Champaran.
2. Sangeet kumar Dubey S/o Banshidhar Dubey resident of Village baikunthwa, P.o. Kujlahi, P.s Nautan ,Dist- West Champaran.
3. Ram Prasad Vishwakarma S/o late Jagarnath Mistri r/o Mohalla- Gulab Bagh , Bettiah, P.s Bettiah town, Dist- West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. K.M.Joseph, Advocate
For the Respondent/s : None.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 11-12-2018

The plaintiff of Title Suit No.236 of 2012 has filed this application for quashing the order dated 30.06.2015 passed by Sub Judge-I, Bettiah, West Champaran whereby and whereunder the intervener petition filed by respondent no.3 under Order 1 Rule 10 read with Section 151 of the CPC was allowed and he was impleaded as defendant no.3.

2. Heard learned counsel for the petitioner. Nobody appeared on behalf of the respondents.

3. The plaintiff has filed the aforesaid suit for declaring the General Power of Attorney dated 24.04.2012 and sale deed dated 07.05.2012 executed by defendant no.1 in favour of his son



defendant no.2 as fraudulent and not binding on the plaintiff. The plaintiff had executed a power of attorney on 24.04.2012 in favour of defendant no.1 on receiving four post-dated cheques for an amount of rupees forty seven lacs. As per request of defendant no.1, the plaintiff deposited the said post dated cheque in bank on 25.05.2012 but the same were dishonoured on account of insufficient fund. The plaintiff further claimed that the defendant no.1 fraudulently and illegally executed sale deed in favour of defendant no.2 with respect to the land which was subject matter of power of attorney. The plaintiff accordingly, filed the present Title Suit No.236 of 2012 against the defendants for declaration with respect to the power of attorney as well as the sale deed executed by defendant no.1 in favour of defendant no.2. During the pendency of the suit, the defendant no.2 executed a deed of agreement with respect to the land which was allegedly purchased by him from the defendant no.1. The respondent no.3 on the strength of deed of agreement filed a petition under Order 1 Rule 10 of the CPC for impleading him as party to the suit. The learned court below after hearing both the sides allowed the petition and impleaded the respondent no.3 as party to the suit. It appears that the registered deed of power of attorney and the sale deed executed on the strength of power of attorney are under challenge.



According to the petitioner, the defendant nos.1 and 2 have not acquired any interest in the property on the basis of deed of power and so they had no right to execute any document with respect to the land in dispute. It has been submitted that the deed of agreement propounded by the respondent no.3 is fraudulent and it was malafide created in collusion with defendant no.2 only to harass the petitioner. The said document is also hit by the principles of lis pendens . The deed of agreement does not create any right or title in favour of intervenor in the property of the petitioner.

4. In view of above discussions, I find that the learned court below has committed error in allowing the intervenor petition. The impugned order is not sustainable and is accordingly set aside. This writ application is allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.12.2018
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