

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7987 of 2015

1. Samida Khatoon wife of Md. Mustak Ahmad
2. Md. Mustak Ahmad Son of Late Molvi Sirajuddin Resident of village- Mogalpura Bigha, P.S. Bakhiarpur, District- Patna.

... .. Petitioner/s

Versus

1. Md. Kalamuddin Son of Late Mahboob Hussain
2. Md. Ekramuddin Son of Late Salamuddin
3. Chotan Son of Late Md. Slam
4. Samsu Mian Son of Late Md. Alam All resident of village- Ram Nagar, P.O.- Salimpur, P.S.- Bakhtiarpur, district- Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8035 of 2015

1. Samida Khatoon Wife of Md. Mustak Ahmad
2. Md. Mustak Ahmad Son of Late Molvi Sirajuddin Resident of village- Mogalpura Bigha, P.S. Bakhiarpur, District- Patna.

... .. Petitioner/s

Versus

1. Md. Kalamuddin Son of Late Mahboob Hussain
2. Md. Ekramuddin Son of Late Salamuddin
3. Chotan Son of Late Md. Slam
4. Samsu Mian Son of Late Md. Slam All resident of village- Ram Nagar, P.O.- Salimpur, P.S.- Bakhtiarpur, district- Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 7987 of 2015)

For the Petitioner/s : Mr. Syed Hussain Majeed, Advocate
Mr. Ravish Chandra, Advocate
Mr. Avinash Shekhar, Advocate

For the Respondent/s : None.

(In Civil Writ Jurisdiction Case No. 8035 of 2015)

For the Petitioner/s : Mr. Syed Hussain Majeed, Advocate
Mr. Ravish Chandra, Advocate
Mr. Avinash Shekhar, Advocate

For the Respondent/s : None.

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 26-11-2018

Petitioners of both the writ applications are plaintiffs of

Title Suit No.39 of 2003 pending in the Court of Munsif, Barh,



Patna. They have filed these applications for quashing the orders dated 21.01.2015 whereby and whereunder the petitions filed by these petitioners to implead the transferee pendete lite as a party to the suit as well as amendment of plaint were rejected.

2. Heard learned counsel for the petitioners. No body appeared for the respondents.

3. It appears that the petitioners filed the aforesaid suit for declaration of their title and confirmation of possession over the suit land mentioned in schedule-1 of the plaint besides some other relief.

4. During the pendency of the suit, the defendant no.2 executed sale deed on 16.06.2014 in favour of Ravindra Prasad Yadav for an area of measuring 1 katha. These petitioners in order to implead them as party to the suit filed a petition under Order 1 Rule 10(2) of the CPC. They further filed a petition for amending the plaint. The petitioners want to get the said sale deed declared void ab-nitio and not binding on them. The learned court below rejected both the petitions observing that the petitions have been filed at a belated stage. The evidence of both the parties have been closed and the suit is pending for final argument. The observation of the court below rejecting the said petitions appears against the materials on record. The document in question was executed on



16.06.2014 and petition for impleading the transferee as party to the suit as well as petition to amend the plaint were filed on 14.07.2014, i.e., within a month of execution of the document. In order to avoid multiplicity of the suit and also to adjudicate all the issues involved in the suit, prayer of the petitioner is fit to be allowed.

5. Accordingly, the impugned order is set aside and both the writ applications are allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.11.2018
Transmission Date	N/A

