

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.129 of 2016

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1. Shivratri Devi Wife of Rajendra Singh R/o village - Akhalashpur, P.S. Bhabua, District - Kaimur at Bhabua

.... Petitioner/s

Versus

1. Rajendra Singh Son of Late Bibhuti Singh
2. Ghanshyam Singh Son of Late Ranvijay Bahadur Singh
3. Man Mohan Singh
4. Murali Manohar Singh Both Sons of Late Ramayan Singh
5. Govind Narayan Singh Son of Rajendra Singh
6. Akhilesh Singh
7. Brajesh Singh both sons of Ghanshyam Singh
8. Ashutosh Kumar Son of Mohan Singh
9. Umesh Chandra Son of Manohar Singh
10. Sudhir Kumar Singh Son of Govind Singh
11. Sanni Singh minor son of Govind Narayan Singh under guardianship of his father Govind Narayan Singh
12. Shanti Devi Wife of Late Ramayan Singh
13. Pramila Devi Wife of Ghanshyam Singh
14. Sumita Devi Wife of Govind Naryan Singh
15. Bhanumati Devi Wife Subhash Singh All resident of village - Akhalashpur, P.S. Bhabua, District - Kaimur at Bhabua

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Tribhuwan Narayan
For the Respondent/s : Mr. Achhaibar Singh
Mr. Rudal Singh
Mr. Raj Bansh Dubey
Mr. Shashi Bala Verma
Mr. Babu Nandan Prasad

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

5 24-08-2018 Heard both sides.

The petitioner filed this civil miscellaneous petition against the order dated 20.01.2016 passed in Title Suit No.228 of 2001 by which the petition of the petitioner-plaintiff for adding para 23(a) after para 23 of the plaint has been rejected.



Learned counsel for the petitioner submits that during the pendency of the suit, the plaintiff-petitioner came to know that Most. Ramrati Kuwer relinquished her property in favour of her nephews on 25.05.1947 and since then the nephews of Ramrati Kuer came in possession over the land. It is further submitted that the suit is for partition and the evidence of the plaintiff is going on and no prejudice would cause to the defendant but the learned court below has rejected the petition of amendment on the ground that plaintiff has not stated about the date of knowledge of the deed of relinquishment executed by Most. Ramrati Kuwer.

On the other hand, learned counsel for the respondent Nos.2, 4, 9 and 15 submitted that the amendment is brought after 15 years from the date of filing of the suit. The element of due diligence is absent. The plaintiff has not stated anywhere that even after due diligence she could not be able to find out the facts at the time of filing of the suit.

The order VI Rule 17 C.P.C. deals with the amendment in the plaint and written statement. The aforesaid provision says that all such amendments which are necessary for determination of the disputes between the parties shall be allowed. From perusal of the amendment petition, it appears that suit is for partition and the plaintiff wanted to insert certain sentence in para 23(a) of the



plaint that Most. Ramrati Kuwer, wife of Late Shiv Jati Singh relinquished her entire property by a deed of relinquishment dated 25.05.1947 in favour of her nephews, Choudhary Jainath Singh, Choudhary Guptnath Singh and Choudhary Bibhuti Singh and since then her nephews have been in possession of the land. I find that the amendment would not change the nature of the suit nor would cause any injustice to the defendants but the learned Sub Judge V has erroneously rejected the petition of the petitioner.

Therefore, the order dated 20.01.2016 is set aside. The petition of amendment is allowed. It goes without saying that the defendant may file additional written statement.

Accordingly, this civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

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