

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9685 of 2013

1. Gautam Singh son of Chandrika Singh.
 2. Devendra Singh son of Janardan Singh.
 3. Indrawati Devi wife of Harendra Rai, daughter of Babu Chandrika Singh.
- All are resident of village- Dumrahar Bujurg, Paragana- Chaubar, PO. -
Dumrahar, PS. Darauli and District- Siwan.

... .. Petitioner/s

Versus

1. Lallan Prasad Rai son of Kidai Singh @ Vishwanath Singh.
 2. Rai Ranvijay Dev.
 3. Rai Shiv Vinay Dev.
 4. Rai Vikram Dev.
 5. Rai Shushant Dev, all sons of late Ramjee Rai.
 6. Kumari Shruti Rai.
 7. Kumari Vinti Rai. Both daughters of late Ramjee Rai.
 8. Harendra Rai.
 9. Bagish Rai.
 10. Santosh Rai. All sons of late Sharda Devi.
 11. Suman Rai daughter of late Sharda Devi.
- All are resident of village Dumrahar Bujurg, Paragana Chaubar, PO.-
Dumrahar, PS.- Darauli and District- Siwan.
12. Pankaj Kumar Rai.
 13. Neeraj Kumar Rai. Both sons of late Binda Devi
 14. Ranjana Devi.
 15. Nmanisha Devi, both are daughter of Binda Devi.
 16. Mohanjee Rai son of Jagarnath Rai.
 17. Umrawati Devi @ Amarawati Devi wife of Bhrigunath Rai.
- All resident of village Dumrahar Bujurg, Paragana Chaubar, PO.-
Dumrahar, PS.- Darauli and District- Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Chandra Kant, Navin Kumar and Dhirendra Kumar, Advs.
For the Respondent/s	:	Mr. Mahesh Nr. Parbat, Sr, Adv. Mr. Ved Prakash Srivastava and Mr. Bhanu Prakash, Advs.

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 28-11-2018

This writ application has been filed to set aside the order

dated 06.04.2013 in part and order dated 09.04.2013 passed by



Munsif-I, Siwan in Title Suit No. 306 of 1989 whereby and whereunder the learned court below received a document at the stage of argument without reopening the case of the plaintiff.

2. Heard learned counsels for the petitioners and the respondents.

3. The respondent 1st set filed the aforesaid Title Suit No.306 of 1989 for declaration of sale deed dated 27.11.1986 as null, void and inoperative. The plaintiff further sought relief of injunction against the defendants. In course of trial, both the parties adduced their evidence and when the case was pending for argument, the plaintiffs filed petition to call for some documents for marking the same as exhibit. The court below allowed the petition and the documents were ordered to be marked.

4. The learned counsel for the petitioners submitted that the learned court below without any prayer to reopen the case, has allowed the petition and called for the documents for marking the same as exhibit ignoring the provisions of Order XIII of the Code of Civil Procedure and so this impugned order is not sustainable and is fit to be set aside.

5. The learned counsel for the respondents on the other hand opposed the submission. It has been submitted that the



defendants filed a petition to recall the defendants' witness nos.1, 4, 6 and 7 for cross-examination on the point of interrelationship among the parties. After cross-examination of defendants' witnesses, the plaintiffs in order to establish their case of relationship filed a petition to call for family register from the court of Fast Track-I, Siwan. The plaintiffs filed the certified copy of said family register. The document in question was available in case record of Criminal Appeal No. 17 of 2009/21 of 2009. The learned court below in order to give an opportunity to the plaintiffs, has allowed the prayer of the plaintiffs and so this writ application is fit to be dismissed.

6. On going through the impugned order and documents on record, I find that four witnesses examined by the defendants were cross-examined and only thereafter the plaintiffs filed petition to call for family register which was available in case record of Criminal Appeal No. 17 of 2009. The said document was not in the domain of the plaintiffs and so the same was called for by the court below for consideration in deciding the issue on the point of relationship among the parties.

7. In view of above facts, I do not find any jurisdictional error in allowing the respondents' prayer to call for family register for admitting the same in evidence.



8. This application being devoid of merit is accordingly
dismissed.

(Sanjay Kumar, J)

mkchy/-

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

