

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18599 of 2013

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Razia Ather W/O Late Afrul Hasan Rizivi, R/O Moti Kashi Takia, P.O.- Bihar Sharif, P.S.- Laheri, District- Nalanda.

.... Petitioner

Versus

1. Md. Barkat S/O Late Md. Akram, R/O Kashi Takia, P.O.- Bihar Sharif, P.S.- Laheri, District- Nalanda
2. Bibi Saukat Nasar, W/O Md. Barkat, R/O Kashi Takia, P.O.- Bihar Sharif, P.S.- Laheri, District- Nalanda.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rana Baljit Singh, Advocate

For the Respondent/s : Md. Syed Firoz Raza, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 02-08-2018

Petitioner before this court is plaintiff of Title Suit No.80 of 2009 pending in the court of Subordinate Judge I, Nalanda at Bihar Sharif. She has filed this writ application for quashing the order dated 17.07.2013 whereby and whereunder her amendment petition to amend the plaint was rejected.

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

3. The petitioner has filed the aforesaid suit for declaration of her title and also for a relief to injunct the defendants from causing any interference over the suit land. She filed amendment petition for impleading one Nusrat Nasar as co-defendant and amendment in description of suit property. She wants to add the fact that the



defendants have not constructed house over their purchased land rather they constructed the house after amalgamating the land of plaintiff and left 2½ decimals land from western side for the plaintiff. The plaintiff further wants to add the fact that the deed writer inadvertently mentioned the name of Balmiki Singh in eastern boundary and *neej* in western boundary in the sale deed. The name of Ajimuddin and others should have been mentioned in western boundary and *neej* in eastern boundary.

4. The court below after hearing both sides rejected the petition observing that the prayer of the plaintiff was already rejected against which the plaintiff did not move higher court. On perusal of impugned order and submission of both sides, I find that it stands admitted that the prayer of the petitioner was earlier rejected by the trial court on 17.07.2012. The said order has become final against which the plaintiff-petitioner has not moved higher court. It further appears that the plaintiff-petitioner had sold her land measuring 8 decimals to one Saryug Prasad Singh by virtue of registered sale deed dated 24.07.1973. The said purchaser Saryug Prasad Singh in due course sold 5 decimals land to Saukat Nasar (respondent no.2) and his sister Nusrat Nasar by virtue of two registered sale deeds dated 30.01.1991 for an area measuring 2½ decimals each. The petitioner has asserted that the description of boundary of land conveyed under



registered sale deed dated 24.07.1973 which was executed by her in favour of Saryug Prasad Singh was not correctly mentioned by the scribe. The suit was filed in the year 2009 and after three years of filing the suit the said petitioner has filed amendment petition which was rejected on merit on 17.07.2012. The said order has not been assailed by the petitioner in higher court and she filed another amendment petition which is legally not maintainable. Besides that, the boundary given in sale deed has been challenged after 37 years of execution of sale deed.

5. In view of above discussions, I do not find any merit in this writ application. This writ application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	06.08.2018
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