

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6280 of 2013

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1. Sudha Agrawal W/O Bharat Bhushan, at present resident of:- Nand Bhawan (51), Durgavari Sadar, Meerut, (U.P.)
 2. Neelam Agrawal @ Susma Agrawal W/O Aalabhya Narain Agrawal, at present resident of:- Kora Kaagaj, Begusarai, Bihar
 3. Savita Agrawal @ Savita Gupta W/O Mahesh Gupta, at present resident of:- Poonam Silai Machine, Loharaveer, Vanarasi (U.P.)
 4. Mandavi Agrawal W/O Ravi Agrawal, at present resident of:- Versa Garment, Bada Bazaar, Jhansi, (U.P.)

.... Petitioners

Versus

Ritu Gupta @ Ritu Agrawal, D/O Srikant Agrawal, at present resident of:- Bhabhua, Ward No. 3, P.S. Bhabhua, District:- Kaimur, Bihar. Permanent resident of:- House No. 2354, Sector 7/A, Housing Colony, Faridabad, State:- Haryana.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Ravi Kumar, Advocate
Mrs. Priya Choubey, Advocate
Mr. Rajiv Ranjan Singh, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT
Date: 01-11-2018

Petitioners before this court are substituted defendants in Title Suit No.25 of 2002 pending in the court of learned Subordinate Judge V, Kaimur at Bhabua. They have filed this writ application for quashing the order dated 19.12.2012 whereby and whereunder the amendment petition filed by the respondent no.1 was allowed.

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

3. The respondent no.1 filed the aforesaid suit for partition claiming 1/12th share in Schedule I of the plaint and 1/6th share in



Schedule B of the plaint. During pendency of the suit, she filed an amendment petition seeking certain amendments in the pleading and also to insert some plot numbers in schedule of the plaint. After appearance of respondent, the matter was heard and this writ application was allowed on 16.08.2013 and the impugned order dated 19.12.2012 was set aside. Subsequently the defendant nos.1 and 2 filed Civil Review No.395 of 2013 on the ground that they were not impleaded as party to the said writ application. The suit relates to partition of joint family property and they have also interest in the suit property. This court as per order dated 20.08.2014 allowed the review application and recalled the order passed in the writ application and fixed the case for admission.

4. It appears that the plaintiff filed the present amendment petition on 26.09.2012 i.e. after ten years of the institution of the suit. The plaintiff has asserted that Kamlakant Agrawal was the karta of the branch of Lakhi Prasad Agrawal after partition from the branch of Baijnath Prasad Agrawal. By proposed amendment, the plaintiff substituted figure '1962' by figure '1985'. By the second amendment, the plaintiff has substituted the area measuring '0805' in place of '0380' hectare. She further added a large number of plots in Schedule of the plaint besides some other amendment.

5. On going through the pleadings of the plaintiff and the



amendment petition, I find that by said amendment the plaintiffs want to withdraw the admission as regards year of partition which she had admitted in the plaint. She has stated in the plaint that partition took place in 1962 and now she asserts that partition took place in 1985. Besides that she has added various plot numbers in Schedule ‘Ka’ of the plaint claiming to be the joint family property. The amendments in question introduce altogether a new case at the stage when the plaintiffs have closed their case and the suit is pending for evidence of defendants.

6. In view of above facts, the impugned order allowing the amendment in favour of the respondent no.1 is set aside and this writ application is allowed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.11.2018
Transmission Date	

