

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1532 of 2017**

1. Smt. Jaimanti Devi, wife of Sri Krishan Prasad,
2. Smt. Babita Devi, wife of Sri Kuldeep Prasad Both Resident of Village- Bandhi, Tola- Pandey Dih, P.O.+ P.S.- Sirdala, District- Nawada.

... .. Petitioner/s

Versus

1. Smt. Sudha Devi, wife of Sri Chandeshwar Prasad
2. Chandeshwar Prasad, son of Late Khedi Prasad, Both Resident of Village- Bandhi, Tola- Pandey Dih, P.O.+ P.S.- Sirdala, District- Nawada.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dronacharya
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 03-12-2018 Heard Mr. Dronacharya, learned counsel for the petitioners.

The petitioners are the plaintiffs. The plaintiffs filed the suit for declaration of the sale deed no.14329/2000 with regard to the land mentioned in Schedule 'ka' as illegal and void and the plaintiffS also sought relief that the registered sale deed no.10293 dated 25.09.2001 be declared as valid and on the basis of such sale deed, the plaintiffs further seek relief for declaration of title and confirmation of possession over the lands mentioned in Schedule 'ka' of the plaint.

During the course of hearing after examination of five witnesses on behalf of the defendants, the plaintiffs filed the petition for amendment in the plaint that Gita Devi herself did



not execute the sale deed no.14329/2000 and someone else impersonated her and put her thumb impression on the sale deed. By amendment, the plaintiffs wanted to insert the facts that in fact, Sudha Devi herself put thumb impression by impersonating Gita Devi on sale deed no.14329/2000 and, therefore, thumb impression of Gita Devi be taken and compared with the thumb impression bearing on sale deed no.14329/2000. Learned Munsif after hearing both sides vide its order dated 20.05.2017 dismissed the petition of the plaintiffs for amendment of the plaint on the ground that main question to be decided in the suit is whether the sale deed in question has been executed by Gita Devi or not. Gita Devi has already been examined on behalf of the defendants and her thumb impression was also examined by the expert. Even then the plaintiffs wanted to introduce new facts through the amendment which has got no bearing in order to decide the main question as to whether Gita Devi executed sale deed no.14329/2000 on 16.11.2000.

Mr. Dronacharya, learned counsel for the petitioners submits that the amendment intended to be brought about in the plaint would not cause any prejudice to the defendants. The plaintiffs wanted to state the facts that Sudha Devi put her



thumb impression on the sale deed no.14329/2000 dated 16.11.2000 in place of Gita Devi but the plaintiffs did not ever pray for examination of Gita Devi or for comparison of her admitted thumb impression with the thumb impression bearing on the sale deed. The defendants in their evidence examined Gita Devi and her thumb impression was also examined by the expert. Therefore, I find that learned Munsif has rightly held that the amendment intended to be brought about in the plaint is unnecessary and has no bearing in order to decide the question whether Gita Devi executed the sale deed or not and rightly rejected the amendment petition.

Having considered the facts aforesaid, I do not find any merit in this civil miscellaneous petition. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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