

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.722 of 2017

1. Harinarayan Singh
2. Prabhu Nath Singh
3. Sambhu Sharan Singh
4. Balram Singh
5. Ram Parikshan Singh
6. Arun Kumar Singh

Petitioner Nos.1 to 6 are sons of Late Shiv Singh @ Shivji Singh

7. Kapil Deo Singh
8. Bharat Singh

Petitioner Nos.7 and 8 are son of Late Gorakh Singh

All petitioners No.1 to 8 are r/o village-Rajjopur, P.S.-Bheldi, District-Saran

... .. Petitioner/s

Versus

1. Satya Narayan Singh
2. Pashupati Singh
3. Shankar Singh
4. Vinod Singh

All respondents are s/o Late Socha Singh r/o village Rajjopur, P.S.-Bheldi, District-Saran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anant Kumar Bhaskar
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 07-12-2018

Heard learned counsel for the petitioners.

The petitioners have filed this civil miscellaneous petition against the order dated 22.02.2017 passed in Partition Suit No.70 of 2000 by which the learned Sub Judge XI, Saran at Chapra allowed the amendment petition filed by the defendants.

The petitioners are the plaintiffs. When the suit was taken up for argument, the defendants filed petition for amendment in the plaint and to add the genealogy of Chirangi



Mahto. Learned Sub Judge has allowed the same petition.

Learned counsel for the petitioners submits that a different genealogy was given on behalf of the defendants. The plaintiffs have given genealogy stating that Jagdish Mahto had three sons but the defendants in their genealogy stated that Ramphal got two sons namely, Chirangi Mahto and Gajraj Mahto. The defendants also admitted this fact in their evidence that Chirangi, Gajraj and Jayram were three brothers, therefore, that amounts to withdrawal of admission but I find no force in the submission of the learned counsel for the petitioners. By allowing the amendment in written statement, the nature of suit would not change. The defendants only wanted to give the genealogy which was not appended in their written statement and the onus shall be on them to prove their own case.

Considering the facts aforesaid, I do not find any error in the order impugned. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J)

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