

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20729 of 2013

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1. Jagpati Devi W/O Musafir Bhagat Village- Saraiya, P.O- Saraiya, Via- Tarwara, Police Station- G.B. Nagar, District- Siwan.
 2. Dharmendra Kumar S/O Musafir Bhagat Through Petitioner No. 1, Mother And Natural Guardian. Village- Saraiya, P.O- Saraiya, Via- Tarwara, Police Station- G.B. Nagar, District- Siwan.
 3. Jitendra Kumar S/O Musafir Bhagat Through Petitioner No. 1, Mother And Natural Guardian. Village- Saraiya, P.O- Saraiya, Via- Tarwara, Police Station- G.B. Nagar, District- Siwan.
 4. Vijendra Kumar S/O Musafir Bhagat Through Petitioner No. 1, Mother And Natural Guardian. Village- Saraiya, P.O- Saraiya, Via- Tarwara, Police Station- G.B. Nagar, District- Siwan.
 5. Suman Devi W/O Sheo Nath Bhagat Village- Saraiya, P.O- Saraiya, Via- Tarwara, Police Station- G.B. Nagar, District- Siwan.

.... Petitioners

Versus

1. Musafir Bhagat S/O Late Ram Ratan Bhagat Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.
2. Virendra Bhagat S/O Adalat Bhagat Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.
3. Anil Bhagat S/O Raghav Bhagat Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.
4. Rajesh Bhagat S/O Raghav Bhagat Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.
5. Thakur Bhagat S/O Late Ram Ratan Bhagat Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.
6. Rajendra Bhagat S/O Late Ram Ratan Bhagat Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.
7. Baban Bhagat S/O Late Ram Ratan Bhagat Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.
8. Chhathia Devi W/O Arjun Sharma Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.
9. Ajimuddin Dhobi S/O Upat Dhobi Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.
10. Nizamuddin Dhobi S/O Upat Dhobi Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.
11. Tufani Ansari S/O Mahemdin Ansari Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.
12. Noor Alam S/O Saheb Sah Village- Saraiya, P.O- Saraiya, Via- Tarwara, P.S- G.B. Nagar, District- Siwan.

.... Respondents

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Appearance :

For the Petitioners : Mr. Kaushal Kishore Mishra, Advocate
For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER



6 26-02-2018 This application has been filed for setting aside the order dated 01.08.2013 passed by Sub Judge-VI, Siwan in Title Suit No.699 of 2009 whereby and whereunder the amendment petition of these petitioners were rejected.

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

3. The petitioners filed Title Suit No.699 of 2009 for declaration of their title and possession over the land mentioned in schedule-1 of the plaint and also that the defendant 3rd set did not acquire any right or title over the said land. The plaintiffs further sought relief that the sale deeds executed by defendant no.1 in favour of defendant 3rd party are forged, fabricated, void and ineffective one and the same are not bind on the plaintiffs. The defendant no.1 is the husband of plaintiff no.1 and father of plaintiff nos.2 to 5. The plaintiffs have alleged that the defendant 3rd set fraudulently got seven sale deeds executed in their favour without paying any consideration money. It has been submitted that the plaintiffs no.1 is a rustic lady and plaintiff nos.2 to 5 are her children. The husband of the plaintiff no.1 was a drunkard and the defendant 3rd set after intoxicating her husband got some sale deeds executed without paying any consideration money. The plaintiff filed an amendment petition for adding one more para as



9A which relates to declaration of sale deed as forged, fabricated and without consideration. The plaintiff in order to clarify the nature of fraud wants to introduce one more para. The proposed amendment appears simple in nature and just in consonance with the facts already pleaded in the plaint. The trial of the suit has not commenced and for effective adjudication the proposed amendment appears just and proper.

4. In view of above facts, the impugned order refusing to amend the plaint is set aside and this application is allowed. The amendment petition filed by petitioner is allowed subject to payment of cost of Rs.2,000/- to the contesting defendant before the court below. The defendants are given liberty to file additional written statement with respect to the amended plaint.

5. This application is accordingly allowed.

(Sanjay Kumar, J)

B.Kr./-

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