

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2271 of 2014

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Ram Prasad Mukhiya S/o Bindeshwari Mukhiya, Resident of Village-
Balha, P.O- Balha, P.S- Supaul, District Supaul.

.... Petitioner

Versus

1. Roghi Devi W/o Bhaiji Mukhiya Resident of Village- Balha, P.O- Balha, P.S- Supaul, Distt- Supaul.
2. America Mukhiya S/o Late Jarman Mukhiya Resident of Village- Malbabu Bishanpur, P.O- Kasmara, P.S- Dhamdaha, District- Purnia.
3. Nago Mukhiya S/o Late Jarman Mukhiya Resident Of Village- Malbabu Bishanpur, P.O- Kasmara, P.S- Dhamdaha, District- Purnia.
4. Arun Mukhiya S/o Late Jarman Mukhiya Resident Of Village- Malbabu Bishanpur, P.O- Kasmara, P.S- Dhamdaha, District- Purnia.
5. Kameshwar Mukhiya S/o Chhedi Mukhiya Resident Of Village- Sirkahi, P.O- Sahaiganj, P.S- Dhamdaha, District- Purnea.
6. Gogi Mukhiya S/o Chhedi Mukhiya Resident of Village- Sirkahi, P.O- Sahaiganj, P.S- Dhamdaha, District- Purnea.
- 6A. Prakash Mukhiya, S/o Chhedi Mukhiya Resident of Village- Sirkahi, P.O- Sahaiganj, P.S- Dhamdaha, District- Purnea.
7. Jagdish Mukhiya S/o Late Neno Mukhiya Resident of Village- Balha, P.O- Balha, P.S- Supaul, District- Supaul.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pawan Kumar, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

6 13-03-2018 This writ application has been filed by the plaintiff of Title Suit No.04 of 2002, which is pending in the Court of Munsif, Supaul, for setting aside the order dated 28.10.2013 whereby and whereunder the amendment petition filed by the petitioner was rejected.

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



3. It appears that the petitioner had filed an amendment petition on 16.09.2005 for amending the plaint which after hearing was rejected as per order dated 11.06.2007. The petitioner filed C.W.J.C. No.438 of 2011 for setting aside the said order which after hearing was dismissed as per order dated 21.07.2011 with the following observation:-

“In my view, the amendment if allowed would cause prejudice to the case of the other side. However, it will be open to the plaintiff-petitioner to clarify the matter during depositions in the matter.

This application stands dismissed.”

4. After disposal of the aforesaid writ application, the petitioner again filed an amendment petition for amendment of plaint. The plaintiff had filed the suit for declaration with respect to the land which was acquired by him by virtue of registered sale deed. The defendants-respondents have purchased the land in same plot from the northern side from the heirs of recorded tenant. The vendors of both parties belong to one family and are co-sharers. By the proposed amendment, the petitioner wants to amend the suit property. The defendants filed written statement and denied to have any manner of concern with the disputed land as per averment made in paragraph 14 of their written statement. Now the plaintiff wants relief with respect to the land which has



been purchased by the respondents. The plaintiff has already examined six witnesses and after closing the evidence of the plaintiff, the defendants have been directed to adduce evidence. The amendment petition of this petitioner has already been rejected earlier by the court below and also by this Court in C.W.J.C. No.438 of 2011 and so the present writ application is not maintainable.

5. In view of above facts, this writ application is dismissed.

(Sanjay Kumar, J)

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