

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1456 of 2017

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1. Hira Lal Yadav,
 2. Sushil Das, Both Sons of Late Satrugan Yadav, resident of Village and P.O.- Chandpur Bhanga Tola, Chharrapatti, P.S.- Jankinagar, District- Purnea.
 3. Sri Bhupendra Yadav, Son of Late Sundar Yadav,
 4. Arun Yadav,
 5. Anil Yadav @ Anil Kumar Yadav.
 6. Arvind Kumar Yadav, Petitioner no. 4 to 5 sons of Sri Bhupendra Yadav, Petitioner no. 3 to 5 all residents of Village Chandpur, Bhanga Tola Chharrapatti, Ward No. 12, P.O.- Chandpur Bhanga Via Murliganj, P.S.- Jankinagar, District- Purnea. (Interveners).

.... Appellant/s

Versus

1. Krishna Kumar Yadav, Son of Sri Surya Narain Yadav, resident of Village- Chandpur Bhanga Tola, Chharrapatti, P.O.- Bhanga, P.S.- Jankinagar, District- Purnea.
2. Surya Narain Yadav, Son of Late Newa Lal Yadav.
3. Nand Kishore Yadav, Son of Surya Narain Yadav.
4. Jai Kumar Yadav, Son of Surya Narain Yadav, respondent no. 2 to 4 all resident of Village- Chandpur Bhanga Tola Chharrapatti, P.O.- Bhanga, P.S.- Jankinagar, District- Purnea.
5. Smt. Savitri Devi, D/o Surya Narain Yadav, W/o Sri Shatrughan Yadav, resident of Village Gariha, P.O.- Simraha, P.S. Madhepura, District- Madhepura.
6. Smt. Mano Devi, D/o Surya Narain Yadav, W/o Sri Ashok Yadav, resident of Village & P.O.- Mirchaibari, P.S.- Jankinagar, District- Purnea.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Diwakar Upadhyaya
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 17-07-2018

Heard the learned counsel for the petitioners.

The petitioners have filed this Civil Misc. petition against the order dated 23.05.2017 passed in Title Suit No. 06 of 2015 by which the petition of the petitioners filed under Order I



Rule 10 (2) of the C.P.C. for intervening in the partition suit has been dismissed.

The learned counsel for the petitioners submits that Gopal Yadav got five sons namely Basant Lal Yadav, Lal Binhai Yadav, Newa Lal Yadav, Panchu Yadav and Laxmi Yadav. Plaintiffs and defendants are grand sons of Newa Lal Yadav. The plaintiffs filed the suit against the defendants for partition of the property allegedly fell in the share of Newa Lal Yadav. The interveners are descendent of branch of Panchu Yadav and Laxmi Yadav, 4th and 5th sons of Gopal Yadav. It is submitted that from perusal of the revisional survey records it would appear that most of the lands are jointly recorded in the record of rights. It has been stated that all the five brothers are entitled to got 1/5th share but no partition by metes and bounds had taken place. The petitioners filed petition for intervention that they are necessary party. It is further submitted that the plaintiffs got their names mutated with regard to a piece of land but on objection by the interveners/ petitioners the Circle Officers found that the names of the plaintiffs and defendants were wrongly recorded without any basis although the land was joint. It is submitted that without considering the aforesaid facts the learned Sub Judge has illegally rejected the petition of the petitioners for being impleaded as



defendants in the partition suit. From the facts it appears that the plaintiffs filed the suit for partition. The plaintiffs and defendants are descendants of Newa Lal Yadav, third son of Gopal Yadav. Petitioners, who wanted to be impleaded in the partition suit, are grand sons or great grand sons of fourth and fifth son of late Gopal Yadav. It appears from the perusal of the order itself that the parties were transacting with each other and sold the land as if the lands have been partitioned among themselves and partition took place among the sons of Gopal Yadav. The other descendents of Gopal Yadav have not come forward to be impleaded in the suit. The plaintiffs have asserted that their father got land which was partitioned among the sons of Neva Lal Yadav. If the petitioners feel that the entire land is joint and no partition by metes and bounds has taken place, the petitioners shall be at liberty to file a separate suit for partition making all the descendants of Gopal Yadav as defendants but the present suit between the descendents of Newa Lal Yadav, a son of Gopal Yadav, the petitioners are on facts not necessary or proper party.

Accordingly, I do not find any merit in this Civil Misc. petition and the same is dismissed.

(Prabhat Kumar Jha, J)

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