

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7434 of 2012

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1. SMT. KALAWATI DEVI W/O RAJENDRA SINGH RESIDENT OF DUMARIA, MUNICIPAL NO.9, P.S. & DISTRICT KISHANGANJ
 2. ARJUN SINGH SON OF RAMJEE SINGH RESIDENT OF VILLAGE DUMARIA, MUNICIPAL WARD NO.9, P.S. & DISTRICT-KISHANGANJ

... .. Petitioner/s

Versus

1. SHRI SHARAB NARAYAN JHA SON OF DAYAKANT JHA RESIDENT OF VILLAGE DUMARIA, MUNICIPAL WARD NO. 9, P.S. KISHANGANJ, DISTRICT KISHANGANJ
2. SMT. PRATIM DEVI W/O SHRI SHARAB NARAYAN JHA RESIDENT OF VILLAGE DUMARIA, MUNICIPAL WARD NO. 9, P.S. KISHANGANJ, DISTRICT KISHANGANJ
3. SRIKANT MANDAL S/O LATE JAHANGIR MANDAL RESIDENT OF VILLAGE DUMARIA, MUNICIPAL WARD NO.9, P.S. & DISTRICT-KISHANGANJ

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 30-03-2018

The petitioners are defendant of Title Suit No.09 of 2001 pending in the Court of Munsif-Ist, Kishanganj. They have filed this application for quashing the order dated 13.02.2012 whereby and whereunder the amendment petition filed by respondent/plaintiff was allowed.

2. Heard learned counsel for the petitioners. Nobody appeared for the respondent on repeated calls.

3. It appears that the respondents filed the aforesaid suit against the petitioners for declaration that they are rightful owner of the suit land on the strength of registered sale deed dated 25.04.1979 and the defendants have no manner of concern with the same. The defendants encroached some of the portion of the land



which is illegal and they are liable to be removed from the said land. In course of trial, the plaintiff filed amendment petition praying therein to amend the plaint as on account of clerical mistake, the details of land in schedule could not be correctly mentioned. The plaintiff further sought amendment in the relief portion as well as in description of suit land by mentioning boundary.

4. On going through the amendment petition and its rejoinder, I find that the main objection of the petitioners is with respect to relief which has been allowed by the court below. The amendment with respect to relief is as follows:-

“And that so-called sale deed of 26.08.1991 standing in the name of defendant no.1 for the land of MS plot no.54 cannot caste nor has casted any adverse effect on the right, title interest and possession of the plaintiffs over the land of the suit plot no.54 and same is not binding upon the plaintiff.”

5. The suit was filed in the year 2001 and after filing of written statement, issues were framed and the plaintiff examined witnesses. From the report of lower court, it appears that nine witnesses have been examined by the plaintiff and the case is pending for evidence of defendants. The said amendment petition has been filed after four years of the filing of the suit. The plaintiffs want to get a declaration with respect to the sale deed dated 26.08.1991 which stands in the name of petitioner no.1 Smt.



Kalawati Devi. According to learned counsel for the petitioners, the plaintiff is not entitled to this relief as the same is barred by limitation. By this amendment, the nature of the suit has changed and it has seriously prejudiced the plaintiff. The plaintiff wants declaration with respect to a document which was executed for about 20 years ago.

6. So far other amendments are concerned, the same appear to be formal in nature as most of them are numerical correction as well as mentioning of plot number in the boundary of disputed plot.

7. In view of above discussions, the amendment with respect to addition of relief no.2 after relief no.1 of the plaint is not sustainable and so the order allowing amendment to this effect is set aside. The other amendments which have been allowed by the court below appears simple in nature and so the same does not require any interference.

8. This writ application is accordingly disposed of with the above observations and modifications.

brajeshkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
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(Sanjay Kumar, J)

