

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17620 of 2014

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1. Sri Bhola Singh &
 2. Sri Arya Kumar Singh, both sons of late Mohan Singh, both resident of village-Chechaul, P.S.+ P.O. Naubatpur, District-Patna.

.... Petitioner/s

Versus

1. Sri Tirith Narain, son of late Priya Sharan Singh,
2. Sri Ramesh Kumar, son of Sri Tirith Narain Singh,
3. Sri Nagendra Kumar, son of Sri Tirith Narain Singh &
4. Sri Narendra Kumar, son of Sri Tirith Narain Singh, all resident of village-Chechaul, P.O. + P.S. Naubatpur, District-Patna.

Plaintiff/ Respondent Ist set.

5. Kumar Kanhai,
6. Pawan Kumar, both sons of Sri Bhola Singh, resident of village-Chechaul, P.O. + P.S. Naubatpur, District-Patna

Defendants/Respondents 2nd set.

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate
For the Respondent/s : Mr. Abhimanyu Sharma, Advocate
Ms. Prakritita Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT
Date: 06-09-2018

Petitioners before this Court are defendant nos.1 and 2 in Title Suit No.106 of 2004 pending before the court below. This application has been filed for quashing the order dated 02.06.2014 whereby and whereunder the learned court below allowed the amendment petition.

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

3. It appears that the respondent Ist set filed the aforesaid suit for declaration of their title over the land mentioned in schedule-1 of the plaint. They have further prayed for grant of injunction restraining the defendants from causing any interference over the suit



land. As per case of plaintiff, the defendant no.1 fraudulently created a will purported to be executed by Baiju Singh in favour of his wife and started claiming the land as absolute owner. The said Baiju Singh never executed the alleged will and the same is forged fabricated. The defendant no.1 at para-11 of the written statement has also stated that one of the co-sharer Baiju Singh executed a will in favour of his wife Girija Devi on 05.12.2000. In the light of aforesaid pleadings, the plaintiffs filed a petition for amendment of plaint to introduce the fact that the cause of action arose on the date when the defendants started claiming more share in the land mentioned in schedule-1 of the plaint on the basis of forged fabricated will. The plaintiffs have further sought amendment for correction of the word 'Cheducal'. The amendment sought for appears formal in nature and does not change the nature of the suit. The defendants were aware of these facts and these are based on the pleadings on record. The court below has thus rightly allowed the amendment.

4. In view of above discussions, I do not find any merit in this application and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
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