

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12384 of 2013

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Umesh Prasad, son of late Bankey Prasad, resident of village - Thera Jalalpur, P.S. - Warisaliganj, District – Nawadah.

.... Petitioner

Versus

1. Sujit Kumar son of Murali Manohar Prasad Singh and Late Chinta Mani Kuer @ Chinta Devi, resident of village - Badi, P.S. - Giriak, District - Nawada, At Present Rajendra Nagar, Nawadah, P.S. and Distt. - Nawadah
 2. Sunil Kumar son of Murali Manohar Prasad Singh and Late Chinta Mani Kuer @ Chinta Devi, resident of village - Badi, P.S. - Giriak, District - Nawada, At Present Rajendra Nagar, Nawadah, P.S. and Distt. - Nawadah
 3. Raju Kumar @ Munna son of Murali Manohar Prasad Singh and Late Chinta Mani Kuer @ Chinta Devi, resident of Village - Badi, P.S. - Giriak, District - Nawada, at present Rajendra Nagar, Nawadah, P.S. and Distt. - Nawadah
 4. Sudama Devi widow of Late Banaras Prasad, resident of village - Thera Jalalpur, P.S. - Warisaliganj, District - Nawadah
 5. Pappu Kumar son of late Banaras Prasad, resident of village - Thera Jalalpur, P.S. - Warisaliganj, District - Nawadah
 6. Munna Kumar son of Late Banaras Prasad, resident of village - Thera Jalalpur, P.S. - Warisaliganj, District - Nawadah
 7. Karu Kumar son of Late Banaras Prasad, resident of village - Thera Jalalpur, P.S. - Warisaliganj, District - Nawadah
 8. Krishnadeo Prasad son of Late Firangi Mahto, resident of village - Thera Jalalpur, P.S. - Warisaliganj, District - Nawadah
 9. Kapildeo Prasad son of Sheonandan Prasad, resident of village - Thera Jalalpur, P.S. - Warisaliganj, District - Nawadah
 10. Sudhir Kumar son of Gulab Mahto and Late Urmila Devi
 11. Bipin Kumar son of Gulab Mahto and Late Urmila Devi
- Nos.10 and 11 are residents of village - Thera Jalalpur, P.S. - Warisaliganj, District - Nawadah
12. Kumari Rekha daughter of Gulab Mahto and Late Urmila Devi, and wife of Anil Prasad, resident of village Hathiyari, P.O. Birnama, P.S. - Pakari Barawan, District - Nawadah
 13. Madhuri Devi wife of Dr. R.K. Prasad, resident of Sarai Kela, P.S. Sarai Kela, District - Singhbhum (Jharkhand)
 14. Most. Saroj Devi daughter of Late Bankey Prasad and Late Most. Etwari and widow of Late Janardan Prasad, resident of Mohalla - Malgodam, Nawadah, P.S. and District - Nawadah
 15. Anup Kumar son of Surendra Prasad and grandson (Nati) of Late Most. Etwari, resident of Koniypar, Nawadah, P.S. - Kadirganj, District – Nawadah.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vidya Sagar, Advocate
Mr. Amit Anand, Advocate

For the Respondents : None



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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT
Date: 01-11-2018

Petitioner before this Court is defendant in Title Suit No. 77 of 1990 pending in the court of Additional Munsif-VI, Nawada. He has filed this writ application for quashing the order dated 12.04.2013 whereby and whereunder the learned court below refused to decide the valuation matter as preliminary issue.

2. Heard learned counsel for the petitioner. Nobody appeared for the respondents.

3. It appears that the plaintiff filed the aforesaid suit for declaration of title over the land mentioned in Schedule-C of the plaint. The plaintiff has further sought relief to declare that the revisional survey entry made with respect to the said land in the name of defendant is wrong, illegal and not binding on the plaintiff. The plaintiff claims the suit property by virtue of registered deed of gift which was executed by her father. It appears that initially the plaintiff had assessed the value of suit for the purpose of declaratory relief at Rs.100/- against which the defendant raised protest by filing petition which was heard and the learned court below as per order dated 03.09.2009 directed the plaintiff to re-assess the value of suit property and amend the plaint accordingly. Thereafter the plaintiff amended the plaint by correcting value of suit property at Rs.20,000/-



and paid ad-valorem court fee of Rs.2440/- in place of declaratory court fee of Rs.29.25/-. Against the said order, the defendant filed CWJC No. 18801 of 2010, which after hearing was disposed of with an observation that the court below has not committed any irregularity in providing opportunity to the plaintiff to re-assess and value the suit. This court further observed that if any party is aggrieved with the valuation, it would be open for the parties to challenge the same.

4. The learned counsel for the petitioner submitted that the suit property measures more than four acres land which according to the market value cannot be less than Rs.1 crore. The learned counsel in support of his contention has cited Annexure 11 which is the valuation report fixed by District Sub-Registrar in which the value of concerned area has been shown as Rs.1,50,000/- per decimal. So in view of prevailing market value of the suit property, the court below has no jurisdiction to decide the suit.

5. On going through the impugned order and documents or record, I find that the suit was filed in the year 1990. The plaintiff had initially assessed the value of suit at Rs.100/- for the purpose of relief. Subsequently, on the order of learned court below the plaintiff re-assessed and valued the suit property at Rs.20,000/-. In view of amended relief as regards declaration of title and confirmation of possession, the plaintiff has paid ad-valorem court fee thereon. The



valuation report of District Sub-Registrar is of the year 2013 i.e. after 23 years of the institution of the suit by the plaintiff. In the said report, I find that different natures of land have been described at different rates. The case is at initial stage of hearing and the court below on being satisfied with the valuation given by plaintiff has accepted the valuation. The points raised by the defendant as regards valuation is a mixed question of law and fact and it cannot be decided as preliminary issue at this stage. The court below has thus rightly refused to entertain the objection of the petitioner.

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

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.11.2018
Transmission Date	

