

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1437 of 2016

=====

1. Husna Khatoon w/o late Syed Quasimuddin Hasan,
2. Najma Khatoon d/o late Syed Quasimuddin Hasan Both residents of
Village- Barmadpur, P.S. Kanti, District Muzaffarpur.

.... Petitioner/s

Versus

1. Syed Alauddin Hasan s/o late Anwar Hussain resident of village
Barmatpur, P.O. Damadarpur, P.S. Kanti, District Muzaffarpur.
2. Shahnaz Bano w/o late Syed Hussain Ali d/o late Syed Anwar Hussain
resident of mohalla Azad Lane, P.O. M.I.T., P.S. Brahampura, District
Muzaffarpur.
3. Syed Kalamuddin s/o late Anwar Hussain resident of village Barmatpur,
P.O. Damadarpur, P.S. Kanti, District Muzaffarpur.
4. Bibi Shahjahan Khatoon w/o late Syed Nooruddin Hasan resident of
village Barmatpur, P.O. Damadarpur, P.S. Kanti, District Muzaffarpur.
5. Bibi Najmunnisha w/o late Syed Salauddin Hasan resident of village
Barmatpur, P.O. Damadarpur, P.S. Kanti, District Muzaffarpur. at present
residing at mohalla Azad Lane, P.O. M.I.T., P.S. Brahampura, District
Muzaffarpur.
6. Bibi Nasima Khatoon w/o late Syed Md. Nizamuddin resident of village
Barmatpur, P.O. Damadarpur, P.S. Kanti, District Muzaffarpur.
7. Mobina Khatoon w/o Md. Akbar resident of village Barmatpur, P.O.
Damadarpur, P.S. Kanti, District Muzaffarpur at present c/o Saheb Jaan
(P.C.I.) village Barmatpur, P.O. Damadarpur, P.S. Kanti, District
Muzaffarpur.
8. Md. Parvez Alam s/o late Md. Zakir
9. Kamran Rahman s/o late Habib Mustafa Rahmani
10. Abdul Salam s/o Md. Nasiruddin Ansari
11. Ramesh Kumar Sharma s/o late Vishwanath Sharma All residents of
village Barmatpur, P.O. Damadarpur, P.S. Kanti, District Muzaffarpur.
12. Bipin Bihari s/o Lakhinder Sahi resident of village Shahbajpur, P.S.
Kanti, P.O. ., District Muzaffarpur.
13. Md. Irshad Alam s/o late Md. Manjan Alam resident of village
Damdarpur, P.S. Ahiyapur, P.O.. , District Muzaffarpur.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Sanjay Parasmani
For the Respondent/s : Mr.

=====

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**

ORAL ORDER

4 26-10-2018

Heard learned counsel for the petitioners. Nobody appears



on behalf of the respondents in spite of notice served on them.

The petitioners filed this civil miscellaneous petition against the order dated 10.06.2016 passed by Sub Judge IX, Muzaffarpur in Title Suit No.943 of 2012 by which the learned Sub Judge dismissed the petition of the petitioners filed under Order I Rule 10(2) read with Section 151 C.P.C.

The plaintiffs, Syed Alauddin Hasan and Bibi Shahnaz Bano filed the suit for declaration of right, title and interest over the lands mentioned in Schedule II and III of the plaint and for confirmation of possession thereon. The plaintiffs further seek relief that sale deed dated 1274 dated 02.05.2012, sale deed no.17567 dated 27.06.2012 and sale deed no.15753 dated 09.06.2012 be declared as void, inoperative, without consideration and the same did not confer any title on the defendant 4th and 5th party over the lands mentioned in Schedule V to VII of the plaint. If the plaintiffs are found dispossessed, the recovery of possession be given to the plaintiffs. During the pendency of the suit, the petitioners, claiming themselves to be wife and daughter of Quasimuddin Hasan, filed petition under Order I rule 10(2) C.P.C. for impleading them as defendants in the suit but the learned Sub Judge by the impugned order rejected the petition of the petitioners on the ground that the certificate does not show that the



petitioner No.1 remarried with Quasimuddin Hasan and petitioner No.2 was born out of the wedlock of petitioner No.1 and Late Quasimuddin Hasan.

Learned counsel for the petitioners submits that petitioner No.1 was married to Ali Mohammad but she solemnized second marriage in the year 1989 with Quasimuddin Hasan after the death of her first husband. The Nikahnama was also filed. The daughter was born out of the wedlock of Quasimuddin Hasan and petitioner No.1 but learned Sub Judge has rejected the petition of the petitioners for being impleaded as defendants on mere surmises that there is no document showing that the petitioner No.1 remained wife of Quasimuddin Hasan till his death.

Perused the records. The plaintiffs are the son and daughter of Syed Anwar Hussain. Quasimuddin Hasan was another son of Anwar Hussain. The petitioners claiming to be the widow and daughter of Quasimuddin Hasan, one of the sons of Syed Anwar Hussain. Syed Anwar Hussain got five sons and one daughter. The petitioners filed Aadhaar Card, a copy of F.I.R. and other documents showing that petitioner No.1 is the wife of Quasimuddin Hasan and petitioner No.2 is the daughter of Quasimuddin Hasan but without taking into consideration the aforesaid document in its true perspective, I find that learned Sub



Judge has erroneously rejected the petition of the petitioners for being impleaded as defendants in the suit. Accordingly, I find that the order dated 10.06.2016 passed by learned Sub Judge is erroneous and not sustainable. Consequently, this civil miscellaneous petition is allowed. The order dated 10.06.2016 passed in Title Suit No.943 of 2012 is set aside. The petitioners are directed to be impleaded as defendants in the suit.

(Prabhat Kumar Jha, J)

Saurabh/-

U			
---	--	--	--

