

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1503 of 2018

1. Vijay Kumar Gupta.
2. Satya Narayan Prasad Gupta.
3. Subodh Kumar Gupta.

All sons of Ram Nandan Sao. All Residents of Muhalla Trigun, Dehri, P.O. Dehari, District Rohtas, at present resident of Village Khajuri, P.O. Jhumar Dihara, P.S. Barun, District Aurangabad

... .. Defendants-Petitioners

Versus

1. Baban Choudhary.
2. Bijay Choudhary.

Both sons of Late Awadhesh Choudhary, Residents of Village Dhamani, P.O. Jhumar Dihara, P.S. Barun, District Aurangabad.

3. Hira Devi, Wife of Baijnath Choudhary, Daughter of Late Awadhesh Choudhary, Resident of Village Hariharganj, P.O.+P.S. Nasriganj, District Rohtas.

4. Girja Devi, Wife of Jawahar Choudhary, daughter of Late Awadhesh Choudhary, Resident of Village + P.O. Sadipur, P.S. Kandi, District Gadhwah (Jharkhand).

5. Durgawati Devi, Wife of Bigan Choudhary, Daughter of Late Awadhesh Choudhary, Resident of Village Dehri On Sone, P.O. + P.S. Dehri On Sone, District Rohtas.

6. Radhika Devi, Wife of Awadhesh Choudhary, Daughter of Awadhesh Choudhary, Resident of Village + P.O. + P.S. Darihat, District Rohtas.

7. Usha Devi, Wife of Muna Choudhary, Daughter of Late Awadhesh Choudhary, Resident of Village Rasalpur, P.S. + District Rohtas.

8. Indra Devi, Wife of Umesh Choudhary, Daughter of Late Awadhesh Choudhary, Resident of Village Dhundhua, P.O. Khadha, P.S. NTPC, District Aurangabad.

... .. Plaintiffs-Respondents

Appearance :

For the Appellant/s : Mr. Kanhaiya Pandey
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 14-12-2018

Heard the learned counsel for the petitioners.

The petitioners have filed this civil miscellaneous petition against the order dated 21.08.2018, passed by learned Sub-Judge-I, Aurangabad in Title Suit No.125 of 2014 by which the petition of the petitioner filed under Order VII Rule 11 has



been rejected.

The petitioners are the defendants. Learned counsel for the petitioners submits that the plaintiff filed the suit for declaration of the sale deed dated 04.12.1984 as illegal, void, not operative and not binding on the plaintiff. The petitioners filed petition that the suit is filed after 30 years for setting aside the sale deed dated 04.12.1984.

In view of the provisions of Limitation Act, there is limitation of three years to file suit for declaration of sale deed as illegal from the date of its knowledge but the question of knowledge is a question of fact and it has to be proved by adducing evidence when the plaintiff came to know about the execution of the sale deed dated 04.12.1984. Considering the facts, I find no error in the impugned order and hold that the suit is not barred under Order VII Rule 11 CPC.

Thus I find no merit in this civil miscellaneous petition and the same is dismissed.

(Prabhat Kumar Jha, J)

S.KUMAR/-

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