

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11317 of 2014

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1. Smt. Savitri Devi wife of Shri Lal Babu Rai
2. Lal Babu Rai son of Shri Rajdeo Rai
Both residents of village + P.O. Thahara Gopalpur P.S. Pusa, District – Samastipur.

.... Petitioners

Versus

1. Jugeshwar Rai son of Late Ram Khelawan Rai
2. Most. Anita Kumari wife of Late Jwala Pd. Rai
3. Kishlay Kumar
4. Priti Kumari MInors son and daughter of Late Jawala Pd. Rai under the guardianship of their mother Most. Anita Kumari
5. Smt. Menka Devi wife of Shri Awadhesh Kumar Rai
6. Kriti Kumari
7. Prashansa Kumari
8. Kajal Kumari
All minors daughter of Shri Awadhesh Kumar Rai under the guardianship of their natural father, all residents of village + P.O. Thahra Gopalpur P.S. Pusa District - Samastipur
9. Awadhesh Kumar Rai son of Shri Jugeshwar Rai, resident of village + P.O. Thahra Gopalpur P.S. Pusa District – Samastipur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Lovekush Kumar, Advocate
Mr. S. Choudhary, Advocate
For the Respondent/s : Mr. Ram Shankar Pradhan, Sr. Advocate
Mr. Jainendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 10-08-2018

Petitioners before this court are defendants of Title Suit No.254 of 2012 pending in the court of Subordinate Judge III, Samastipur. They have filed this writ application for quashing the order dated 23.05.2014 whereby and whereunder their prayer to amend the written statement was rejected.

2. Heard learned counsels for the petitioners and the



respondents.

3. The respondent nos.1 to 8 filed the aforesaid suit on 03.09.2012 for declaration that the registered sale deed dated 27.07.2012 executed by the respondent no.9 (defendant 2nd set) in favour of petitioners (defendants 1st set) as null and void, forged, inoperative and not binding on the plaintiffs. The plaintiffs have further sought relief for declaration of their title over the suit land. The defendants, who are petitioners before this court, filed written statement on 21.02.2013. The defendant no.3, who is respondent no.9 before this court, filed his written statement on 24.06.2013. The petitioners filed an amendment petition on 06.03.2014 for amending the written statement. The petitioners want to substitute the word “*ekmoost*” (One Time) by inserting the word “*dafe-dafe*” (Time to Time). The learned counsel for the petitioners submits that they had paid the consideration money to the respondent no.9 with respect to the land in dispute much before execution of sale deed on different occasion i.e. *dafe-dafe*. The defendants are rustic villagers and on the version of defendants, the written statement was drafted. The sale deed in question was not in their possession at the time of drafting of written statement and the petitioners could know about mode of payment only after going through the sale deed wherein it has been mentioned that the money was paid from time to time. The suit is at



the initial stage of trial. The payment of consideration money has been denied by the plaintiffs and other defendants. The suit is at initial stage and the defendants have filed this petition immediately after getting knowledge about the contents of sale deed. The amendment appears bonafide and simple in nature.

4. In the facts and circumstances of the case and considering the nature of amendment, the impugned order refusing to amend the written statement is set aside. This writ application is allowed subject to payment of cost of Rs.5,000/- to the plaintiffs before the court below.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	20.08.2018
Transmission Date	

