

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18482 of 2012

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1. Mohd. Asgar Ali

2. Mohd. Akbar Ali

Both are sons of late Kahil Mian, Resident of Village-Nuaon, P.S-Nuaon,
District- Kaimur at Bhabhua.

.... Petitioner/s

Versus

1. Gulam Husnain wife of late Manaur Hussain, daughter of Late Khalil Mian,
resident of village- Nuaon, P.S. -Nuaon, District- Kaimur at Bhabhua.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar, Advocate

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 31-07-2018

Petitioners before this Court are defendants of Title Suit No. 164 of 2008 pending in the court of Sub-Judge-I, Bhabhua. This application has been filed to quash the order dated 13.07.2012 passed by Sub-Judge-I, Kaimur at Bhabhua whereby and whereunder the petition filed under section 4 (c) of Bihar Consolidation of Holdings (Prevention of Fragmentation) Act by the petitioners was rejected.

2. Heard learned counsel for the petitioners.

3. It appears that the respondents being plaintiffs filed the aforesaid suit for partition of property mentioned in schedule of plaint. The defendants appeared and filed written statement. After framing the issue, the trial proceeded and both the parties examined their witnesses. At the time of argument, these petitioners filed



petition under section 4 (c) of the aforesaid Act and prayed to abate the suit which after hearing was rejected. The court below observed that these petitioners claim exclusive title over the suit property on the basis of gift made by Md. Khalil. The plaintiffs have denied the said gift. The court below while rejecting the prayer of petitioners observed that there was no paper to show that consolidation proceeding was going on during the relevant period. The points raised by the parties appear to be a mixed question of law and fact, as the plaintiffs deny the title of petitioners on the basis of gift. The case is at the fag end of trial and only argument has to be concluded.

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

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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