

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23645 of 2012

- =====
1. Sheo Bux Mal Trust Situated at Mohalla and P.O. and P.S. Bhagwan Bazar, District- Saran, at Chapra through its Mutawalli Pramod Kumar Bhartiya
 2. Pramod Kumar Bhartiya S/O Late Satya Narayan Bhartiya resident of Mohalla- Katra Bazar, P.O. and P.S. Bhagwan Bazar, Distt. Saran.

.... Petitioners

Versus

1. Sushil Kumar S/O Brahmdeo Narayan Resident Of Village- Kanru Dharu, P.O. And P.S.- Manjhi, Distt. Saran
2. Anil Kumar S/O Brahmdeo Narayan Resident Of Village- Kanru Dharu, P.O. And P.S.- Manjhi, Distt. Saran
3. Dr. Sunil Kumar S/O Suryadeo Narayan Resident Of Village- Kanru Dharu, P.O. And P.S.- Manjhi, Distt. Saran
4. Brajendra Nath Sinha S/O Durga Prasad Sinha Resident Of Village- Saraiya Bhagwanpur, P.O. Bhagwanpur, P.S.- Mashrak, Distt. Saran
5. Rajendra Prasad Shrivastava S/O Dip Narain Prasad Shrivastava Resident Of Village- Saraiya Bhagwanpur, P.O. Bhagwanpur, P.S.- Mashrak, Distt. Saran
6. Pundrik Bihari Sahay S/O Saket Bihari Sinha Resident Of Mohalla & P.O. & P.S.- Bhagwan Bazar, Distt. Saran
7. Birendra Prasad Shrivastava S/O Paras Nath Shrivastava Resident Of Village- Sirisiya, P.O. & P.S.- Rivilganj, Distt. Saran
8. Dharendra Prasad Srivastava S/O Parasnath Shrivastava Resident Of Village- Sirisiya, P.O. & P.S.- Rivilganj, Distt. Saran
9. Dinanath Prasad Yadav S/O Ram Brichha Prasad Yadav Resident Of Mohalla- Ratanpura North, P.O. + P.S.- Bhagwan Bazar, Distt. Saran
10. Shreemati Jayanti Sah D/O Kuar Peyari Singh Resident Of Village Muriola Tola Hari Nagar, P.O. & P.S.- Ram Nagar, Distt. West Champaran
11. Ram Bhagat Prasad S/O Bhagwan Das Resident Of Purani Gurhatti Sahebganj, P.O. & P.S.- Chapra, Distt. Saran

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Manish Chandra Gandhi, Advocate
Mr. Himanshu Ranjan, Advocate

For the Respondent/s : Mr. Ajay Kumar Singh No.1, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 07-08-2018

Petitioners before this court are plaintiffs of Title Suit No.23 of 1988. They have filed this writ application for quashing the order dated 11.10.2012 whereunder their amendment petition was



rejected.

2. Heard learned counsels for the petitioners and the respondents.

3. It appears that the plaintiffs filed the suit for declaration of their right and title. They claimed their title on the basis of settlement taken in the year 1920. The petitioners filed an amendment petition for amending only one figure. According to the petitioners, in paragraph 5 of the plaint the date 21.06.1920 has been wrongly printed as 21.09.1920. The settlement was made in favour of ancestor of the plaintiffs on 21.09.1920 and not on 21.06.1920.

4. It has been submitted that the figure '6' was wrongly read as '9'. The defendants have simply denied that no settlement was made in favour of the plaintiffs. It has been further submitted that the proposed amendment does not change the nature of the suit and if it is allowed, the plaintiffs would not examine any witness and the suit would be decided on the basis of evidence on record.

5. The learned counsel for the respondents, on the other hand, submitted that the case is at the stage of argument and if it is allowed, it would change the nature of the suit.

6. Be that as it may, the main dispute is as to whether the settlement was made in favour of the plaintiffs or not. The defendants have not specifically denied the allegation as regards date of



settlement. The proposed amendment appears simple in nature and it does not change the nature of the suit.

7. The impugned order in the above facts and circumstances is set aside and this writ application is allowed. The court below is directed to give an opportunity to the defendants to file additional written statement only with respect to amended portion of the plaint.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.08.2018
Transmission Date	

