

Civil Writ Jurisdiction Case No.7972 of 2012

.... Respondent/s

For the Respondent/s : Mr. Avanindra Kumar Jha
Mr. Shiva Shankar Sharma
Mr. Arun Kumar Sinha



claiming 1/3rd share in the suit property mentioned in schedule-I of the plaint. In course of trial, both the parties examined their witnesses and when the case was pending for argument, the petitioners filed an amendment petition which after hearing was dismissed.

4. The learned counsel for the petitioners submitted that initially the suit was filed by Jagat Narayan Singh (petitioner no. 1) on the basis of power of attorney executed by the four daughters of late Kamal Singh. On the petition of petitioners, the daughters of Kamal Singh were added as co-plaintiffs and they were permitted to sign the plaint.

5. The learned counsel for the respondent no. 2 submitted that the defendant Dhananjay Singh filed his written statement on 27.01.2005 and at para 13, 14 and 15 of his written statement he has specifically asserted that one of the co-sharer Suryadeo Singh had executed deed of gift in his favour on 25.07.1984 with respect to 6 acre 84 dismal land described in schedule-A of the written statement and since then he is possession over the same. Besides the aforesaid deed of gift, the said Suryadeo Singh had executed another deed of gift in favour of the defendant no. 4.

6. On the basis of pleadings of both parties the learned court below framed issue. Both the parties adduced their oral and documentary evidence and after closing the evidence of both the



parties, the plaintiffs filed an amendment petition to add some fact with respect to the said registered deeds of gift which were executed in the year 1984 by Suryadeo Singh. The learned court below while rejecting the prayer of the petitioners observed that the amendment petition was filed after long delay and if allowed, it will change the nature of the suit. The plaintiffs-petitioners in spite of full knowledge about the deed of gift which stands pleaded in para 13, 14 and 15 of the written statement of defendant no. 2 did not file amendment at the earliest stage of trial and allowed the suit to proceed. After closing the evidence of both sides when the case was fixed for argument he filed the petition. The court below in such circumstance has rightly rejected the amendments so far amendment at serial nos. 6 and 7 of amendment petition are concerned as by the said amendment the plaintiff wants to deny the right, title and interest of defendants which they acquired on the basis of registered deed of gift.

7. So far amendments mentioned at serial nos. 2, 3, 4, 5, 8, 9, 10 and 11 of the amendment petition are concerned, these amendments appear formal in nature and it will not change the nature of the suit. The learned counsel for the petitioners concedes that they would not examine any witness in support of amended pleading.

8. In view of above discussions the impugned order is partially set aside and amendment with respect to amendment



mentioned at para 1, 2, 3, 4, 5 and 8 to 11 of amendment petition stands allowed.

9. This writ application is accordingly disposed of.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13/10/2018
Transmission Date	N/A

