

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11804 of 2012

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1. Harinarayan Tiwary, son of Late Ramdas Tiwary, resident of village-Don Bujurg, P.S. Darauli Pragana Chaubar, District-Siwan
 2. Ballabhdev Tiwary, son of late Baijnath Tiwary, resident of village-Don Bujurg P.S. and Circle Darauli, District-Siwan,
 3. Ram Narayan Tiwary, son of Late Ramdas Tiwary, resident of village-Don Bujurg, P.S. Darauli Pragana Chaubar, District-Siwan
 4. Abhay Shaker Tiwary &
 5. Bibhuti Narayan Tiwary, both are son of Hari Narayan Tiwary, resident of village-Don Bujurg, P.S. Darauli Pragana Chaubar, District-Siwan.

.... Petitioner/s

Versus

1. Md.Moinuddin @ Moinuddin Mian son of Walid Mian @ Janarbali Mian, Resident of village-Don Bujurg, P.S. Darauli, District-Siwan
2. Vidyanand Bhagat, son of Ram Prasad Bhagat resident of village-Don Bujurg, P.S. Darauli, District-Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vishwajeet Kumar Mishra, Advocate
Mr. Ashutosh Tripathi, Advocate

For the Respondent/s : Mr. Raghav Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 10-10-2018

Petitioners before this Court are plaintiff in Title Suit No.161 of 2002 and defendants in Title Suit No.196 of 1999 which are pending before Munsif-I, Siwan for analogous trial. They have filed this application for quashing the order dated 23.01.2009 whereby and whereunder their prayer to amend the plaint and written statement was rejected.

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

3. It appears that aforesaid two suits are pending for trial before the court below. Petitioners are plaintiff in Title Suit No.161 of 2002 and defendants in Title Suit No. 196 of 1999. They filed an amendment petition to add some facts in para-5 of the plaint of Title Suit No.161 of 2002 and in para-25 of written statement filed in Title Suit No.196 of 1999. The facts which are sought to be



added are same. The petitioners want to add the words “entire area of above sale deed dated 25.04.1959 was purchased in the name of Baijnath Tiwary from joint family fund and in the interest of joint family of defendants over which all the defendants are in actual physical possession”. These petitioners have already pleaded about the acquisition of properties as per registered sale deed dated 25.04.1959. By proposed amendment they only want to plead that the said acquisition was made out of the fund of joint family. The learned counsel for the defendants on the other hand opposed the submissions.

4. On going through the pleadings of the petitioners as pleaded in the plaint and written statement, I find that the said amendment, are simple in nature and these do not change the nature of the suit.

5. In view of above discussions, the impugned order rejecting the amendment petition is set aside and this writ application is allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16.10.2018
Transmission Date	N/A

