

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13317 of 2013

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1. Ranvijay Singh son of Late Shatrughan Singh, resident of village + P.O. Madhopur, P.S. Manjhaulia, District - West Champaran.
 2. Mostt. Ajiram Kuer @ Ajiran Devi wife of Late Shatrughan Singh, resident of village + P.O. Madhopur, P.S. Manjhaulia, District - West Champaran.

.... Petitioner/s

Versus

1. Harendra Singh son of Late Bindeshwar Singh, resident of village + P.O. Madhopur, P.S. Manjhaulia, District - West Champaran.
2. Rajeshwar Singh son of Late Bindeshwar Singh, resident of village + P.O. Madhopur, P.S. Manjhaulia, District - West Champaran.
3. Rajkishore Singh son of Late Bindeshwar Singh, resident of village + P.O. Madhopur, P.S. Manjhaulia, District - West Champaran.
4. Kusum Kuer wife of Late Bindeshwar Singh, resident of village + P.O. Madhopur, P.S. Manjhaulia, District - West Champaran.
5. Manju Devi daughter of Late Bindeshwar Singh, wife of Prabhu Narain Singh, resident of village Parsa, P.S. Manjhaulia, District - West Champaran.
6. Bimla Devi D/O Late Bindeshwar Singh, wife of Prabhakar Singh, resident of village Bhawanipur, P.S. Sangrampur, District East Champaran.
7. Digvijay Singh S/O Late Shatoughan Singh, R/O Village + P.O. - Madhopur, P.S. Manjhaulia, District - West Champaran.
8. Mamta Kumari D/O Shatrughan Singh, resident of village Madhopur, P.O. Madhopur, District - Manjhaulia, District West Champaran.
9. Rani Singh daughter of Late Shatrughan Singh wife of Manish Raj, resident of mohalla New Patliputra Colony, Patna, P.S. Patliputra, District – Patna.
10. Kumari Poonam Saksena W/o Satendra Kumar Dubey, resident of village +P.O. Kathariya, P.,S. Kalyanpur, District- East Champaran.
11. Sunila Devi W/o late Mithlesh Rai, resident of village- Karnamya, P.O. Lalgadh, P.S. Bettiah Muffasil, District- West Champaran.
12. Sunita Devi W/o Munna Kumar Mishra, resident of village- Sariya(Ward No. 4), P.O. +District- Gopalganj.
13. Anila Devi W/o Rajeshwar Pandey, resident of village- Pandey Tola, P.O. Sonwal, P.S. Malahi, District East Champaran.
14. Rajiv Ranjan Kumar S/o of Girija Nandan Pandey, resident of village +P.O. - Chatiya, P.S. Malahi, District- East Champaran.
15. Malti Devi W/o late Triloki Singh, R/o Village +P.O.- Aamwa Mun (Bhunjhri Tola), P.S. Majhauliya, District- West Champaran.
16. Dhrub Singh son of Late Bir Bahadur Singh, resident of village + P.O. Madhopur, P.S. Manjhaulia, District - West Champaran.
17. Mina Devi W/o Sudhir Rai, resident of village +P.O.- Jhawuya tola, P.S. Pakhnaha, District- Champaran.
18. Krishnandan Singh son of Late Bir Bahadur Singh, resident of village + P.O. Madhopur, P.S. Manjhaulia, District - West Champaran.
19. Vijay Narayan Singh son of Late Rang Bahadur Singh, resident of village + P.O. Madhopur, P.S. Manjhaulia, District - West Champaran.
20. Vikram Singh son of Late Rang Bahadur Singh, resident of village + P.O. Madhopur, P.S. Manjhaulia, District - West Champaran.
21. Rameshwar Singh son of Late Indradeo Singh, resident of village + P.O.



- Madhopur, P.S. Manjhaulia, District - West Champaran.
22. Ramadhar Singh son of Late Indradeo Singh, resident of village + P.O.
Madhopur, P.S. Manjhaulia, District - West Champaran.
23. Sudama Singh son of Late Bharamdeo Singh, resident of village + P.O.
Madhopur, P.S. Manjhaulia, District - West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vishal Saurabh, Adv.

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 12-10-2018

Petitioners are plaintiffs in Partition Suit No. 167 of 2005 pending in the court of Sub-Judge-I, Bettiah, West Champaran. They have filed this writ application for quashing the order dated 08.03.2013 whereby and whereunder their petition filed under Order VI Rule 17 of Code of Civil Procedure to amend the plaint was rejected.

2. Heard learned counsel for the petitioners and perused the record.

3. The petitioners filed the aforesaid suit for partition of land claiming their share in the land mentioned in schedule-II and III of the plaint. The defendants filed their written statement. In the written statement filed on behalf of defendant no. 18 it has been asserted that separation took place



between two branches of Subedar Ray and Fauzdar Rai immediately after cadastral survey i.e. in the year 1920 and in said partition, Subedar Rai was allotted 5 bigha 5 katha 5½ dhur land whereas Fauzdar Rai was allotted 4 bigha 19 katha 10 dhur land. The petitioner and defendant nos. 1 to 13 are descendants of Subedar Rai whereas respondent nos. 14 to 18 are descendants of Fauzdar Rai. The petitioners filed an amendment petition stating therein that the petitioner no. 1 was junior member in the family and filed the suit for partition of entire land belonging to two branches. They filed the aforesaid petition for deleting the name of defendants who are descendants of Subedar Rai and also the land of their share from the plaint. Besides that the petitioners want to substitute some of the paragraphs disclosing the facts relating to earlier partition and also the manner of inheritance of ancestral property by the defendants of Subedar Rai and Fauzdar Rai.

4. The learned counsel for the petitioners submits that against the amendment petition of these petitioners neither the defendants filed any rejoinder nor raised any objection.



The amendment petition is purely simple in nature and does not change the nature of the suit. The notices were issued against the respondents for their appearance, but none of the respondents appeared.

5. From the report of learned court below submitted under letter no. 179 dated 18.08.2018 it appears that the suit is still pending for appearance of some of the defendants for which these petitioners have been directed to take step for gazette publication for the non-appearing defendants. The case is at an initial stage of hearing.

6. In view of above discussions, I find that the court below has committed error in dismissing the amendment petition which is simple in nature and was filed in the light of pleadings of the defendants. The impugned order is accordingly set aside and this writ application is allowed.

Mahesh/-

(Sanjay Kumar, J)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15/10/2018
Transmission Date	N/A

