

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24512 of 2013

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Guljar Rai Son Of Sri Sital Rai Resident Of Village - Dighi Khurd, P.S. - Hajipur
Sadar, Dist - Vaishali

.... Petitioner/s

Versus

1. Laldeo Singh Son Of Late Ishwar Singh Mastana Resident Of Village -
Damodarpur, P.O. + P.S. - Sarai, Dist. - Vaishali
2. Mosomat Sudamiya Devi Wife Of Late Rampati Singh Resident Of Village -
Yusufapur Pachish Kurva, Police Station - Hajipur Town, Dist. - Vaishali At
Present Residing At Village - Matiyari Lok, Police Station + P.O. - Saray, Dist.
- Vaishali
3. Rabindar Singh Son Of Late Rampati Singh Resident Of Village - Yusufapur
Pachish Kurva, Police Station - Hajipur Town, Dist. - Vaishali At Present
Residing At Village - Matiyari Lok, Police Station + P.O. - Saray, Dist. -
Vaishali
4. Shyamsunder Singh Son Of Late Rampati Singh Resident Of Village -
Yusufapur Pachish Kurva, Police Station - Hajipur Town, Dist. - Vaishali At
Present Residing At Village - Matiyari Lok, Police Station + P.O. - Saray, Dist.
- Vaishali
5. Dinesh Singh Son Of Late Rampati Singh Resident Of Village - Yusufapur
Pachish Kurva, Police Station - Hajipur Town, Dist. - Vaishali At Present
Residing At Village - Matiyari Lok, Police Station + P.O. - Saray, Dist. -
Vaishali
6. Shambhu Singh Son Of Late Sankar Singh, Grand Son Of Late Rampati Singh
Resident Of Village - Yusufapur Pachish Kurva, Police Station - Hajipur Town,
Dist. - Vaishali At Present Residing At Village - Matiyari Lok, Police Station +
P.O. - Saray, Dist. - Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. ANIL KUMAR, Advocate
For the Respondent no.1 : Mr. Jitendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 28-08-2018

Petitioner before this Court is defendant of Title Suit No.07
of 2003. He was impleaded as defendant on his petition filed under
Order 1 Rule 10 of CPC at the time of argument.

2. Heard learned counsel for the petitioner and the



respondents.

3. It appears that the respondent no.1 filed the aforesaid suit for specific performance of contract on the basis of deed of agreement dated 06.12.2001 against original defendant Rampati Singh who was husband of respondent no.1 and father of respondent nos.3 to 5. The petitioner purchased 46 decimals land out of suit property from respondent nos.2 to 5 as per registered sale deed dated 12.01.2013 and filed petition for impleading him as party to the suit. The court below rejected the intervenor petition as per order dated 27.05.2013. The petitioner filed CWJC No.12430 of 2013 against the said order which after hearing was allowed by this Court on 30.07.2013 in following terms:-

“The petitioner is directed to be impleaded as a party defendant in Title Suit No.07/2013 pending in the court of learned Sub Judge-VI, Vaishali at Hajipur.

It is clarified that, as a result of his impleadment, the petitioner can raise and pursue only such evidence as available and taken by the original defendants and none other. It is reiterated, in view of undertaking given on behalf of the petitioner, that petitioner shall not adduce any evidence as the suit is at the stage of final argument.

It is expected that petitioner, after his impleadment, will not seek necessary adjournment and cause any obstruction in disposal of the suits.”

4. The petitioner filed written statement on 02.09.2013. In course of argument, he filed three petitions praying therein to frame an issue to this effect that the suit is barred by Section 53 of the



Transfer of Property Act and Section 17(1-A) of Registration Act. The petitioner further prayed to decide the suit on the point of maintainability of suit and further to permit him to get the thumb impression of original defendant on Mahadnama in question examined and compared by an expert with the admitted document. The learned court below in view of undertaking given by petitioner before this Court rejected the prayer observing that the matter of maintainability of suit and other issues will be considered at the time of final argument. The order of learned court below is well reasoned order in consonance with the direction of this Court given in CWJC No.12430 of 2013. The petitioner is at liberty to raise all the points at the time of argument as observed by the learned court below.

5. In view of above discussions, I do not find any merit in this application and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	31.08.2018
Transmission Date	N/A

