

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1268 of 2017

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1. Radhey Shyam Prasad, Son of Late Garbhu Prasad Yadav,
 2. Snehlata Devi, Wife of Shyam Sundar Yadav.
 3. Shyam Sundar Yadav, Son of Sudhir Prasad Mandal and Late Dayman Devi, All resident of Village- Dandari, P.S.- Singheshwar, Dist.- Madhepura.
 4. Jhabru Sardar, Son of Late Polai Sardar, Resident of Village- Behrari, P.S.- Singheshwar, Dist.- Madhepura.
 5. Yogendra Kumar alias Yogendra Yadav, Son of Sudhish Prasad Mandal.
 6. Vijay Devi, Wife of Yogendra Yadav,
 7. Priyatam Kumar, Son of Yogendra Yadav, all petition no. 4 to 7 are resident of Village- Dandari, P.S.- Singheshwar, Dist.- Madhepura.

.... Appellant/s

Versus

1. Narayan Prasad Sah, Son of Late Khushru Sah,
2. Santosh Kumar Suman, Son of Narayan Prasad Sah, Both resident of village- Babhangama, P.S.- Bihpur, Dist.- Bhagalpur, at present resident of Village- Dandari, P.S.- Singheshwar, Dist.- Madhepura.
3. Janardan Sah, Son of Late Mahadeo Sah, Resident of Village- Babhangama, P.S.- Bihpur, Dist.- Bhagalpur, at present resident of G.C. Banerjee Road, West to Gandhi Chowk, St. Pathik Homeo Clinic, Bhikhanpur, P.S.- Ishakchak, Dist.- Bhagalpur.
4. Moti Lal Sah, Son of Late Mahadeo Sah, Resident of village- Babhangama, P.S.- Bihpur, Dist.- Bhagalpur, at present resident of Village- Dandari, P.S.- Singheshwar, Dist.- Madhepura. At present residing at NCC Road, Mundichak, South to Mini Market Chowk, (Girija Krishna Hospital) Near Dr. Anupma Sahay, P.S.- Ishakchak Dist.- Bhagalpur.
5. Umesh Sah,
6. Dinesh Sah Both respondent no. 5 & 6 are sons of Late Kantilal Sah.
7. Bishambhar Prasad Sah.
8. Manoj Kumar Sah alias Pappu Sah, Both respondent no. 7 & 8 are sons of Late Chotelal Sah All respondent no. 5 to 8 are resident of Village- Babhangama, P.S.- Bihpur, Dist.- Bhagalpur. At present resident of in front of Durga Temple, Mirjanhat, P.S.- Mojahidpur, Dist.- Bhagalpur.
9. Alok Yadav, Son of Sudhish Prasad Mandal and Late Dayman Devi, Resident of Village- Sandari, P.S.- Singheshwar, Dist.-Madhepura.
10. Savitri Devi, Wife of Surendra Yadav, Daughter of Late Dayman Devi, Resident of Village/P.O.- Rampur, P.S.- Pipra, Dist.- Supoul.
11. Anshu Kumari.
12. Anu Kumari,
13. Mithu Kumari, All respondent no. 11 to 13 are daughters of Ratnesh Nandan Yadav & Late Rupa Devi, All resident of village- Baratoli, P.S.- Udakishunganj, Dist.- Madhepura.
14. Munni Devi, Wife of Bipin Gopal, Resident of Village- Madhepura, Ward No.4, P.S./Dist- Madhepura.
15. Sudhish Prasad Mandal, Son of Late Kanu Prasad Mandal, Resident of Village- Dandari, P.S.- Singheshwar, Dist.- Madhepura.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Ghosarvey
For the Respondent/s : Mr.



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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 13-09-2018

Heard the learned counsel for the petitioners.

The petitioners are the defendants. The plaintiffs filed the suit for declaration of title and setting aside the sale deeds executed by Sita Ram Kunwar in favour of defendants on the basis of power of attorney obtained from the wife of Mahadev Sah, which is alleged to be forged and fabricated. During the pendency of the suit the petitioners/ defendants filed petition under Order VII Rule 11 of the Code of Civil Procedure that the present suit is barred in view of the judgement and decree passed in Title Suit No. 114 of 2008.

The learned counsel for the petitioners submits that in view of the judgement and decree passed in Title Suit No. 114 of 2008 the present suit is liable to be dismissed but I find no force in the submission of the learned counsel for the petitioners. The petitioners filed Title Suit No. 114 of 2008 for a direction to register the sale deeds executed by Sita Ram Kunwar in favour of the petitioners. In that suit no question of title was involved. Therefore, I find that the learned Sub Judge has rightly rejected the petition of the petitioners filed under Order VII Rule 11 of the C.P.C. Accordingly, I do not find any merit in this Civil Misc. petition and the same is dismissed.

(Prabhat Kumar Jha, J)

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