

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.197 of 2019

1. Smt. Meena Devi aged about 44 years, Female W/o Ajay Kumar Singh Vill.- Anchha, P.S.-Daud Nagar, Distt.-Aurangabad
2. Smt. Chinta Devi aged about 46 years, Female W/o Om Prakash Singh Vill.- Anchha, P.S.-Daud Nagar, Distt.-Aurangabad
3. Kiran Devi aged about 55 years, Female W/o Satya Dev Singh Vill.- Anchha, P.s.-Daud Nagar, Distt.-Aurangabad
4. Kiran Devi aged about 27 years, Female W/o Kundan Kumar Singh Vill.- Anchha, P.s.-Daud Nagar, Distt.-Aurangabad

... .. Petitioners

Versus

1. Smt. Babli Kumari D/o Surendra Prasad Singh, resident of Mohalla-New Area Chitra Nagar, P.O. and P.S.-Aurangabad, Distt.-Aurangabad wife of Vishavjeet Kumar Singh, resident of village and P.O.-Poiwan, P.S.- Muffasil, District- Aurangabad.
2. Annu Singh S/o Late Lakhandeo Singh resident of Mohalla-New Kazzi Aurangabad, P.O. and P.S.-Aurangabad, Distt.-Aurangabad wife of Satyaajeet Kumar Singh, resident of village and P.O.-Poiwan, P.s.-Aurangabad (M), Distt.-Aurangabad.
3. Sanjeeti Devi D/o Late Mathura Singh, resident of village-new bye pass, Central School Brahampur, P.O.-Satra, P.S.-Ram Krishna Nagar, Patna District, Patna wife of Abhinesh marked Singh, resident of vill. and P.O.- Poiwan, P.S.-Aurangabad (M), Distt.-Aurangabad

... Defendants 1st Set/ Respondents

4. Chandra Pratap Singh S/o Hirendra Pratap Singh, resident of Mohalla-MIG-10, Bharahut Nagar, Satna, P.S.-Kalgava, Distt.-Satna (MP) at present resident of village- Siris A1 Plaza, P.O.-Satna, P.S.-Barun, Distt.-Aurangabad
5. Avinash S/o Late Hirendra Pratap Singh Vill.-Siris A-1 Plaza, P.O. and P.S.- Barun, Distt.-Aurangabad (Bihar)
6. Asha Devi D/o Late Hirendra Pratap Singh Vill.-Siris A-1 Plaza, P.O. and P.S.-Barun, Distt.-Aurangabad (Bihar)
7. Poonam Kumar D/o Late Hirendra Pratap Singh Vill.-Siris A-1 Plaza, P.O. and P.S.-Barun, Distt.-Aurangabad (Bihar)

Attorney for Avinash Singh son of Hirendra Pratap Singh, resident of Mohalla- MIG-10 Bharahut Nagar, Satna, P.O. and P.S. Kalgava, District-



Satna (M.P.) At present resident of Mohalla- 8 Barclayrol, Scare- Dale Ny-10583 (USA) Through Attorney No. 440 dated 01.03.2015 No. USANC 0311715 Kailash Prasad, Assistant Consular Officer, Consulate General of India, Newyark

... .. Defendants 2nd Set/ Respondents

Appearance :

For the Petitioner : Mr.Anil Kumar, Advocate
For the Respondents : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 04-04-2019

Heard learned counsel for the petitioners.

2. This application under Article 227 of the Constitution of India has been filed by the petitioners challenging the order dated 16.11.2018 passed by the learned Sub-Judge-VIII, Aurangabad in Title Suit No. 409 of 2016 whereby the application dated 21.04.2018 filed by petitioners-plaintiffs with a prayer to pass order for simultaneous hearing of Title Suit No. 48 of 2017 has been rejected.

3. Learned counsel for the petitioners submitted that Title Suit No. 409 of 2016 has been filed by the petitioners and Title Suit No. 48 of 2017 has been filed by respondents-defendants no. 6 and 7, namely, Asha Devi and Poonam Kumari respectively. Both the suits were transferred to the court of Sub-Judge-VIII, Aurangabad by the learned District and Sessions Judge, Aurangabad with a view to adjudicate them simultaneously. In



both the suits, material issue is the same, which warrants common oral and documentary evidences in order to avoid conflicting judgments. The court below ought to have allowed the application filed by the petitioners on 21.04.2018 under Section 10 of the Code of Civil Procedure (for short 'CPC') for simultaneous hearing of Title Suit No. 48 of 2017.

4. Having heard learned counsel for the petitioner and perused the materials on record, I find that the petitioner had filed Title Suit No. 409 of 2016 for declaration that sale deed nos. 488 and 489 executed on 11.01.2016 and registered on 14.01.2016 for the lands mentioned in Schedule-C of the plaint are illegal, wrong, fraudulent, sham and void document and respondents-defendants 1st set, namely, Babli Kumari, Annu Singh and Sanjeeti Devi did not acquire right, title or interest for the disputed lands mentioned in Schedule-C of the plaint. Title Suit No.48 of 2017 was filed by the respondent no. 6 Asha Devi and respondent no. 7 Poonam Kumari for declaration of sale deed nos. 9278 and 9288 dated 11.07.2016, which were registered on 13.07.2016 in favour of Meena Devi and others, as wrong and illegal. In the said suit, cause of action had arisen on 10.11.2016 when the cheque given by the respondents no. 1 to 3, namely, Babli Kumari, Annu Singh and Sanjeeti Devi got dishonoured. It is true that the land in



question in both the cases are more or less identical, but in both the cases the reliefs sought for and the cause of action are separate and distinct.

5. Section 10 of the CPC provides that no court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other court.

6. As far as the instant case is concerned, as stated above, the matter in issue in the aforesaid two suits is neither directly nor substantially the same.

7. In that view of the matter, finding no illegality in the impugned order dated 16.11.2018 passed by the learned Sub-Judge-VIII, Aurangabad in Title Suit No. 409 of 2016, I see no reason to interfere with the same.

8. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.04.2019
Transmission Date	

