

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7265 of 2013

Durga Devi wife of Sri Ram Padarath Singh Resident of Village Minapur, P.S. Nayagaon, District-Begusarai

... .. Petitioner/s

Versus

1. Sandal Kumar son of Late Santosh Kumar Sinha Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
2. Sanjay Kumar Son Of Late Santosh Kumar Sinha Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
3. Sanjeev Kumar Son Of Late Santosh Kumar Sinha Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
4. Rubi Devi Daughter Of Late Santosh Kumar Sinha Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
5. Dipa Devi Daughter Of Late Santosh Kumar Sinha Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
6. Ajit Kumar Sinha Son Of Late Brajeshwar Prasad Sinha Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
7. Ajay Kumar Rukhaiyat Son Of Late Brajeshwar Prasad Sinha Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
8. Aswani Kumar Rukhaiyat Son Of Late Brajeshwar Prasad Sinha Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
9. Sudharani Sinha D/O Late Brajeshwar Pd. Sinha Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
10. Nisarani Sinha D/O Late Brajeshwar Pd. Sinha Wife Of Prakash Chandra Sinha Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
11. Shanti Devi W/O Late Hari Nandan Prasad Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
12. Malti Devi W/O Sri Janardan Pd. Sinha Resident Of Village Mahmadpur, P.S. Muffasil, District Begusarai
13. Neelam Devi W/O Shahjanand Singh Resident Of Village Manjhaul Puwari Tola P.S. Cheriya Bariyarpur, Dist. Begusarai
14. Neelmani Kumar Son Of Uma Shankar Singh Resident Of Village Khanjhapur, P.S. Cheriya Bariyarpur, District Begusarai
15. Manish Kumar Son Of Uma Shankar Singh Resident Of Village Khanjhapur, P.S. Cheriya Bariyarpur, District Begusarai
16. Veena Devi W/O Nawal Kishore Jha Resident Of Village Birupur, P.S. Barauni District Begusarai
17. Sweety Kumari W/O Rakesh Kumar Singh Resident Of Village Rahatpur, P.S. Ballia District Begusarai
18. Deepmala Kumari W/O Pramod Kumar Singh Resident Of Village Sadanandpur, P.S. Ballia District Begusarai
19. Manoj Kumar Son Of Late Bachcha Singh Resident Of Village Parora, P.S. Sahebpur Kamal District Begusarai
20. Premlata Devi Wife Of Sudhir Kumar Singh Resident Of Village Rahatpur, P.S. Ballia District Begusarai
21. Sudhir Kumar Singh Son Of Nawal Kishore Singh Resident Of Village Rahatpur, P.S. Ballia, District Begusarai



22. Madhuri Devi W/O Dayanand Singh Village Rahatpur, P.S. Ballia, Dist. Begusarai
23. Rakesh Kumar Singh Son Of Nawal Kishore Singh Resident Of Village Rahatpur, P.S. Ballia District Begusarai
24. Ram Niwas Singh Son Of Indradeo Singh Permanently Resident Of Village Minapur P.S. Nayagaon, District Begusarai At Present Resident Of Barauni, P.S. Barauni, District Begusarai
25. Kislay Kumar Son Of Ram Niwas Singh Permanently Resident Of Village Minapur P.S. Nayagaon, District Begusarai At Present Resident Of Barauni, P.S. Barauni, District Begusarai
26. Premshila Devi Wife Of Ram Niwas Singh Permanently Resident of Village Minapur P.S. Nayagaon, District Begusarai at Present Resident of Barauni, P.S. Barauni, District Begusarai

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pramod Man Bansh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 30.08.2019

The present writ petition has been filed for quashing the order dated 16.01.2013 passed by the learned Sub-Judge-IV, Begusarai in Title Suit No. 272 of 2007, whereby and whereunder the prayer of the petitioner to transpose her to the category of plaintiff, has been rejected.

The case of the petitioner is that the plaintiff-respondents 3rd set had filed the suit in question i.e. Title Suit No. 272 of 2007 against the respondents 1st set and 2nd set respectively for declaring that the plaintiffs have got perfect right, title and interest over Schedule-1 land by virtue of three sale deeds dated 25.08.1992, after holding and declaring that the said sale deed executed by the defendant 1st set in favour of the defendant 2nd set



are illegal fraudulent, fictitious and accordingly, had also prayed for passing of a decree for recovery of possession with regard to the Schedule-1 land in favour of the plaintiffs. The case of the petitioner is that the plaintiffs had purchased the Schedule-1 land in joint name of vendor of the petitioner herein i.e. Suresh Prasad Singh and Ram Niwas Singh (plaintiff no. 1) whereafter the said Suresh Prasad Singh had sold the land vide registered sale deed dated 05.06.2008 in favour of the petitioner herein. The petitioner had upon gaining knowledge about the suit in question had filed a petition for intervention, for being added as party to the suit, which was allowed by the learned court below by an order dated 09.07.2008. The petitioner herein had filed a petition dated 06.09.2010 in the connected suit under Order 1 Rule 10 read with Section 151 C.P.C. for getting herself transposed to the category of plaintiff stating about the genesis of her claim and stating that the claim of the plaintiff and the petitioner herein is common.

I have heard the learned counsel for the petitioner and perused the materials on record from which it is clear that admittedly the vendor of the petitioner herein namely Suresh Prasad Singh is not a party in the connected suit bearing Title Suit No. 272 of 2007, hence the interest of the petitioner herein is not identical to the interest of the plaintiff of the said suit. It is also an admitted fact that the petitioner herein had filed a counter claim in



the said suit but the same has been rejected as not pressed. Moreover, the learned court below has come to a definite finding that upon a plain reading of the plaint and written statement filed by the petitioner herein it is clear that claim of the petitioner and the plaintiff is not common. This Court also finds that the petitioner is party defendant in the said suit bearing T.S. No. 272 of 2007, hence her right stands protected and moreover the petitioner is free to file a separate suit with regard to declaration of her right, title and interest in the land which she has purchased from the aforesaid Suresh Prasad Singh.

Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, I find that the impugned order dated 16.01.2013 passed by the Sub-Judge-4, Begusarai in T.S. No. 272 of 2007 is just, legal and has been passed after proper application of mind, hence no interference is required, thus the writ petition stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.09.2019
Transmission Date	

