

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.164 of 2017

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Kedar Nath Chaubey, Son of Late Butai Chaubey, Resident of Village- Parsia,
P.S.- Rajpur, District- Buxar.

... .. Petitioner/s

Versus

1. Guput Nath Chaubey, Son of Late Subedar Chauber, Resident of Village- Parsia, P.S. Rajpur, District- Buxar. -----Plaintiff-Opposite Party.
2. Dinesh Chaubey,
3. Umesh Chaubey. Both sons of Late Subedar Chaubey.
4. Anand Suman Chaubey.
5. Vidya Bhushan Chaubey, Both sons of Sri Kedar Nath Chaubey.
6. Shailesh Kumar Thakur, Son of Manik Chand Thakur, All resident of Village- Parsia, P.S. Rajpur, District- Buxar.
7. Morik Singh, Son of Lok Nath Singh, Resident of Village- Ghanta Dih, P.S. Dhansoi, District- Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Naresh Chandra Verma, Adv
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 11-01-2019

Heard learned counsel for the petitioner.

2. The petitioner is defendant No.3 in Title Suit No.580 of 2015 brought by opposite party No.1 for partition of the joint family property and for declaration that sale deed dated 18.11.2014 executed by defendant No.3 (petitioner herein) in favour of defendant No.6 and sale deed dated 25.02.2014 executed by defendant No.3 in favour of defendant No.7 are illegal and void document and the same are not binding on the plaintiff.

3. The petitioner filed an application before the learned trial court that since consolidation proceeding has already been



notified in the area, the suit would abate in view of the provisions of Section 4(c) of the Bihar Consolidation Act. By the impugned order dated 22.05.2017, the learned court below has refused the prayer of the petitioner on the ground that the issue involved in the suit cannot be decided by a consolidation court, for the reason that the validity or invalidity of the registered sale deed cannot be decided by an authority conducting the consolidation proceeding.

4. Learned counsel for the petitioner submits that the present case is squarely covered by the judgment of the Hon'ble Supreme Court in Gorakh Nath Dube Vs. Hari Narain Singh and Ors reported in AIR 1973 SC 2451, wherein the Hon'ble Supreme Court said that there is distinction between cases where a document is wholly or partially invalid so that it can be disregarded by a court of authority and one where it has to be actually set aside before it can cease to have legal effect.

5. In the present case, the petitioner was admittedly a co-sharer of the plaintiff/opposite party. The case of the plaintiff is that the petitioner has forged a document of partition of the family property and on that basis has executed two sale deeds referred above. No doubt unless forgery committed by the petitioner is established in the suit, it cannot be said that petitioner had no transferable right or further forgery in any document of partition



cannot be decided by a consolidation court. Therefore, I do not find any merit in this revision application.

6. This revision application stands dismissed as devoid of any merit and I.A.No.7685 of 2018 for stay of operation of impugned order stands disposed of accordingly.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.01.2019
Transmission Date	NA

