

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.119 of 2014

1. Iqbal Ahmad Son of Ahshan Ahmad Resident of Kashway Ahar, P.O. Pragana Saraisha, Police Station- Tajpur, District- Samastipur.
2. Dilip Kumar Sah Son of Late Munni Lal Sah Resident of Village Motipur, Police Station, P.O Pragana Saraisha, Police Station- Tazpur, District Samastipur.

... .. Petitioner/s

Versus

1. Sri Rambilas Sah and Ors. Son of Late Judagi Sah
2. Smt. Mahasundari Devi W/o Sri Rambilash Sah
3. Most. Lala Devi W/o Late Judagi Sah All are resident of Village Bharakhra, P.O. Pragana Saraisha, Police Station Tazpur, District Samastipur.
4. Sri Ashim Kumar Handi S/o Late Pulin Bihari Nandi resident of Mauza Kashway Ahar, P.O. Pragana Saraisha, Police Station- Tazpur, District- Samastipur.
5. Pitambarnath Agrawal S/o Late Lal Prasad Agarwal.
6. Rishi Kumar.
7. Ravi Kumar Agarwal Both Sons of Pitambarnath Agarwal. all are resident of Mauza Kashway Tazpur, Pargana Saraisha, P.O. P.S. Tazpur, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Md. Waliur Rahman
For the Respondent/s	:	Mr. Nishant Kumar Sinha, Adv & Mr. Surya Narayan Roy, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 08-08-2019

Heard learned counsel for the parties.

This civil revision petition has been filed for setting aside the judgment and order dated 05.06.2014 passed by Sub-Judge-I, Samastipur in Title Suit No. 329 of 2012, by which petition filed by defendant no. 1 to 3 under Order 7 Rule 11 of



CPC for rejection of plaint was dismissed.

Plaintiffs filed Title Suit No. 329 of 2012 for declaration of their title and confirmation of possession over the suit land as detailed in Schedule-I of the plaint which they have purchased by four registered sale deeds dated 20.12.1993, 11.04.1994, 13.04.1994 and 15.04.1994 after paying the consideration amount and purchased lands were mutated in their favour and they are paying the rent and getting rent receipts and are in possession over the purchased land and for declaration that defendants have no interest and title over the suit land and to declare sale deed dated 03.12.2009 executed by defendant 2nd party in favour of defendant 1st party as null and void.

Defendants/petitioner appeared and filed their written statement and denied the claim of plaintiffs and prayed to dismiss the suit.

A petition was filed under Order 7 Rule 11 CPC to reject the plaint on the ground that plaintiffs are claiming their rights on the basis of four sale deeds of 1993-94 which was executed by a non registered special power of attorney by Pitambar Nath Agrawal in the name of his son Rishi Kumar who appointed him attorney to execute the sale deeds and on basis of said power of attorney four sale deeds were executed by the



holder of power of attorney in favour of plaintiffs and in view of judgment of Apex Court reported in the case of **Suraj Lamp and Industries Pvt. Ltd. vs State of Haryana** since reported in **(2012) SCC 656 [2012(1) BBCJ 276]** that the power of attorney does not convey any title nor create any interest in immovable property, as such the plaint should be rejected.

A plaint can be rejected under Order 7 Rule 11 CPC on the ground that if the reading of the plaint does not disclose any cause of action or the suit is barred by law, however, in present case none of the two grounds exist. The power of attorney holder was not any stranger but was son of land owner and as such said judgment is not applicable in the present case and moreover, sale deeds of plaintiff is prior to judgment passed by the Apex Court which has been made applicable with prospective effect.

The Power of Attorney holder of plaintiff who executed sale deed in their favour was son of land owner who himself had right, title and interest in the property and could have even otherwise executed sale deed as duly authorized Karta of the family.

After hearing the learned counsel for the petitioner and learned counsel for the opposite party, this Court does not find



any material irregularity or jurisdictional error in the order passed by the court below.

Accordingly, the present revision petition is dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.12.2019
Transmission Date	NA

