

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1395 of 2019

Gorakh Nath Singh Son of Late Jagannath Singh Resident of Village-
Vishnupura, P.O. Goldvinganj, P.S. Chapra Mufassil, District- Saran.

... .. Plaintiff/Petitioner

Versus

1. Raj Kumar Singh Son of Late Ram Kewal Singh Resident of Village-
Vishnupura, P.S. Chapra Mufassil, P.O. Vishnupura, District- Saran.
2. Mithilesh Kumar Singh Son of Late Ram Kewal Singh Resident of Village-
Vishnupura, P.S. Chapra Mufassil, P.O. Vishnupura, District- Saran.
3. Basmato Kuer Wife of Late Ram Kewal Singh Resident of Village-
Vishnupura, P.S. Chapra Mufassil, P.O. Vishnupura, District- Saran.
4. Kamleshwar Singh Son of Kapildeo Singh Resident of Village- Vishnupura,
P.S. Chapra Mufassil, P.O. Vishnupura, District- Saran.
5. Ranjeet Singh Son of Sheo Pujan Singh Resident of Village- Vishnupura,
P.S. Chapra Mufassil, P.O. Vishnupura, District- Saran.
6. Sudhir Kumar Singh Son of Braj Nandan Singh Resident of Village-
Vishnupura, P.S. Chapra Mufassil, P.O. Vishnupura, District- Saran.
7. Suman Kumar Singh Son of Braj Nandan Singh Resident of Village-
Vishnupura, P.S. Chapra Mufassil, P.O. Vishnupura, District- Saran.
8. Namita Rani Daughter of Braj Nandan Singh and Wife of Jitendra Kumar
Singh Resident of Village- Lejuar, P.S. Daudpur, District- Saran.
9. Pankaj Prasun Son of Rana Pratap Singh Resident of Village- Vishnupura,
P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
10. Prashant Tarun Son of Rana Pratap Singh Resident of Village- Vishnupura,
P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
11. Prafulla Son of Rana Pratap Singh Resident of Village- Vishnupura, P.O.
Goldinganj, P.S. Chapra Mufassil, District- Saran.
12. Rana Pratap Singh Son of Shila Nath Singh Resident of Village- Vishnupura,
P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
13. Rinki Devi Wife of Mithilesh Kumar Singh Resident of Village- Vishnupura,
P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
14. Reema Devi Wife of Sanjay Kumar Singh Resident of Village- Vishnupura,
P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
15. Raadhika Devi Wife of Ranjeet Singh Resident of Village- Vishnupura, P.O.
Goldinganj, P.S. Chapra Mufassil, District- Saran.
16. Ratnesh Kumar Singh Son of Ranjeet Singh Resident of Village-
Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
17. Rajesh Kumar Singh Son of Ranjeet Singh Resident of Village- Vishnupura,
P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
18. Tapeshwari Devi Wife of Kamlesh Singh Resident of Village- Vishnupura,
P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.



19. Braj Nandan Singh Son of Shila Nath Singh Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 20. Abhishek Kumar Singh @ Hariji Son of Ram Kumar Singh Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 21. Amit Kumar Singh @ Hareram Son of Ram Kumar Singh Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 22. Rima Devi Daughter of Raj Kumar Singh Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 23. Guriya Devi Daughter of Raj Kumar Singh Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 24. Sushma Devi Daughter of Raj Kumar Singh Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 25. Gayatri Devi Daughter of Raj Kumar Singh Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 26. Manisha Kumari Daughter of Raj Kumar Singh Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 27. Soni Kumari Daughter of Raj Kumar Singh Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 28. Rajeev Kumar Singh Son of Kamleshwar Singh Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 29. Parmeshara Kuer Wife of Sheo Pujan Singh Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
- Defendants/Respondent 1st.
30. Anju Devi Widow of Late Haresh Upadhyay Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 31. Saurabh Kumari Daughter of Late Haresh Upadhyay Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.
 32. Priyanka Kumari Daughter of Late Haresh Upadhyay Resident of Village- Vishnupura, P.O. Goldinganj, P.S. Chapra Mufassil, District- Saran.

... .. Plaintiff-Respondents 2nd Set.

Appearance :

For the petitioner	:	Mr. Nagendra Rai, Advocate Mr. Navin Nikunj, Advocate Mr. Koshalendra Rai, Advocate
For the Respondent	:	Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 19-09-2019

Heard learned counsel for the petitioner.



2. This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 15.05.2019 passed by the learned Sub-Judge-14, Chapra in Title Suit No. 165 of 1997.

3. Learned counsel appearing for the petitioner submitted that the trial court without appreciating the facts and circumstances of the case and without applying the relevant provisions and principles dismissed the amendment petition filed under Order 6 Rule 17 by the plaintiff-petitioner vide order dated 15.05.2019. He contended that the trial court failed to appreciate that the proposed amendments were an additional ground to elaborate the plea of fraud and, hence, legally permissible. It also failed to appreciate that neither any new property is added nor any new evidence is to be led. On the basis of aforesaid submissions, he pleaded that if the impugned order is allowed to stand it will occasion in failure of justice to the petitioner.

4. Having heard learned counsel for the petitioner and perused the materials on record, I find that one Sunaina Kuer had filed Title Suit No. 165 of 1997. The relief sought for by the original plaintiff was to declare that the sale deed executed by her in favour of defendants between 07.07.1996 and 24.06.1996 are



null and void documents and not binding upon her and if she is dispossessed of the properties during the pendency of the suit, then a decree be passed for repossession. The contention of the original plaintiff was that her thumb impression over some papers was obtained on the pretext of her treatment and when she came to know that those documents were fraudulently used for the purpose of execution of sale deed with respect to the properties in question, she filed the suit for the reliefs noted hereinabove.

5. The original plaintiff died after her evidence was adduced. She was subsequently substituted by her legal representative. After the evidences on behalf of the parties were adduced, an application under Order 6 Rule 17 was filed seeking amendment in the pleading of the plaint. The amendment sought for is that the property in question is also joint property of the husband of the original plaintiff.

6. Learned counsel for the petitioner has pleaded that even though the prayer for amendment has been made at belated stage, the same would be of no consequence as the only thing the plaintiff is pleading by way of amendment is that if the properties were joint, the original plaintiff could not have individually executed the sale deeds.



7. In the opinion of this Court, the trial court has rightly rejected the application filed by the petitioner. Apparently, by way of amendment, the petitioner is trying to introduce a new case. The same would require reopening the entire suit and it would also change the nature of the suit.

8. In that view of the matter, I see no illegality or perversity in the order impugned passed by the court below.

9. The application lacks merit. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.09.2019
Transmission Date	

