

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.396 of 2010

1. Saryug Prasad, son of late Ramjee Mahto
2. Mostt. Sita Devi @ Jeera Devi, wife of late Ramjee Mahto
both residents of village Pirauta, P.S. sirdalla, District Nawada
3. Rajendra Prasad, son of late Ram Prasad Mahto, resident of
vilalge/Mohalla Rajgir Dangi Tola, Rajgir, P.S. Rajgir, District Nalanda

... .. Petitioner/s

Versus

1. Bishundhari Prasad
2. Suresh Prasad Verma, both sons of late Pitambar Mahto
3. Balram Prasad, son of late Prasad Mahto
- 4(i) Manju Devi
(ii) Indu Devi
(iii) Ranju Devi
All resident of Upardin Tola, Upardih, Piraurha, P.S. sirdalla, District Nawada
5. Raj Kumar Prasad,
6. Ram Vilash Prasad, both sons of Haro Mahto, residents of Mohalla
Panditpur, P.S. Rajgir, District Nalanda
7. Mostt. Deoki wife of late Sukhdeo Mahto
8. Surendra Kumar
9. Narmendra Kumar, both sons of late Sukhdeo Mahto, all residents of
Mohalla Rajgir Dangi Tola, Rajgir, P.S. Rajgir, District Nalanda
10. Smt. Kiran Devi, daughter of late Sukhdeo Mahto and wife of Mahendra
Prasad, resident of Village Sughri, P.S. Akbarpur, District Nawada
11. Rinku Devi, daughter of late Sukhdeo Mahto, wife of Bhola Prasad,
resident of Salimpur, P.S. Rajauli, District Nawada

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar
For the Respondent/s : Mr. Prakash Mahto

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

18 07-01-2020 The petitioners have put to challenge in the present

civil revision application, an order dated 05.03.2010, passed in

T.S. No. 15 of 1994, whereby an application for amending the

plaint has been rejected.

2. The suit was filed in 1994. A copy of the written



statement was served on the plaintiff on 23.08.1995. This is to be noticed that the petitioners are said to have filed the said Title Suit No. 15 of 1994 for a declaration of the sale-deeds dated 14.02.1989 and 28.04.1989 as null and void, as according to them, the defendant first set did not have the right, title and interest to execute the said sale-deeds.

3. It is the case of the petitioners/ plaintiff that during the pendency of the suit, the defendants filed another registered sale-deed dated 12.10.1990 executed by opposite party no. 4 (since deceased and substituted by legal heirs), at the stage of evidence.

4. In this background, it is the petitioners' claim that they filed the application seeking amendment under order 6 Rule 17 of the CPC. The court below has taken note of the fact that paragraph-18 of the written statement clearly referred to the sale-deed executed by the deceased- opposite party no. 4 dated 11.10.1990. It transpires from the impugned order that the application seeking amendment was made nearly 15 years after filing of the written statement.

5. Learned counsel appearing on behalf of the petitioners has submitted that the court below has wrongly applied the amended provisions of the CPC for refusing the



prayer for amendment in a suit which was filed in 1994, much before the amendment.

6. From the impugned order, I notice that the court below has, for the purpose of rejection of the petitioners' application for amendment, has taken into account the amendments brought in the CPC in 2002 which could not have been applied in a suit filed before the amendments were introduced. However, considering the facts and circumstances of the present case, since the petitioners had the knowledge of execution of sale-deed dated 11.10.1990, which was disclosed in the written statement filed by the defendants, a copy of which was served on the plaintiff on 23.08.1995 itself, I am not inclined to interfere with the impugned order.

7. The revision application is accordingly dismissed.

8. The interim order stands vacated.

(Chakradhari Sharan Singh, J)

Rajesh/-

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