

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.499 of 2018

1. Awadh Kishore Bhagat, son of Nathuni Bhagat
2. Gautam Bhagat , son of Nathuni Bhagat
3. Shiv Kumari Devi, daughter of Nathuni Bhagat
4. Prabhawati Devi, daughter of Nathuni Bhagat
5. Durgawati Devi, daughter of Nathuni Bhagat
All resident of village Sdauwa Kothi, P.S. Sidhwaliya, Distt. Gopalganj.
6. Ram Chandra Bhagat, son of Mohan Bhagat
7. Sarswati Devi, daughter of Mohan Bhagat
8. Chandarjoti Devi, daughter of Mohan Bhagat
All resident of village Almapur, P.S. Barharia, Distt. Siwan.
... Intervenor Defendants – Petitioners..

Versus

1. Ramakant Prasad
2. Chandra Bhushan Prasad
3. Bharat Prasad
4. Nand Kishore Prasad
5. Sanjay Prasad
All sons of late Bachcha Bhagat.
6. Ram Sawari Devi, wife of late Bachcha Bhagat
All resident of village Khajuri Tiwari Tola, P.S. Kuchaikot, Distt. Gopalganj.
Plaintiffs-Respondents 1st set.
7. Mahesh Bhagat, son of Tapan Bhagat, resident of village Khajuri Tiwari
Tola, P.S. Kuchaikot, Distt. Gopalganj
... Defendant-Respondent 2nd set

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mohammad Sufyan, Advocate.
For the Respondent/s : Ms. Mallika Mazumdar, Advocate.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

7 22-11-2022 Heard Mr. Mohammad Sufyan, learned counsel for

the petitioners and Ms. Mallika Mazumdar, learned counsel for

the respondents.

The petitioners are intervenors who filed the petition

before the learned Trial Court under Order I Rule 10 (2) of the

Civil Procedure Code for their impleadment in Title Suit No. 33



of 1990 filed by the plaintiffs/respondents. The original plaintiff had come with the case that one Gopal Bhagat who was his uncle died issue-less in state of jointness with him. So the property of Gopal Bhagat has devolved upon him. Further case of the plaintiffs/respondents is that the defendant Mahesh Bhagat who is from branch of Prahlad Bhagat, with an intention to snatch the property of Gopal Bhagat from the plaintiffs, has created a forged and fabricated gift deed dated 11.6.1982. Accordingly, he prayed that the gift deed be declared null and void.

The defendants filed their written statement and claimed that Gopal Bhagat did not die issue-less. He had two daughters and with permission of his daughters, he had voluntarily executed the gift deed dated 11.6.1982 in their favour. The intervenors/petitioners came out with a new case that in the genealogical table mentioned in Schedule-II of the plaint it has wrongly been depicted that Gopal Bhagat was not having any issue, but fact of the matter is that the intervenors are the legal heirs of the daughters of Gopal Bhagat, namely, Laxmania and Godhniya. It is an admitted position that Laxmania and Godhniya during their life time did not take any steps for challenging the gift deed executed by their so called



father Gopal Bhagat. Even after the death of Laxmania and Godhniya, the petitioners did not take any steps for challenging the gift deed executed by their maternal grandfather. If the petitioners are aggrieved by the gift deed executed in favour of the defendants, they have separate cause of action to challenge the same, but that has not been challenged till date. However, in the petition for impleadment, the petitioners have not even *prima facie* come with a proof that they are the heirs of Gopal Bhagat through Laxmania and Godhniya. It is an admitted legal position that the plaintiff is *dominus litis* and nobody can be added as a party against the wish of the plaintiffs/defendants. The plaintiff has not claimed any relief against the intervenors/petitioners. As such, in my opinion, the presence of the petitioners is not necessary for deciding the suit completely and effectually.

Accordingly, I do not find any infirmity in the impugned order rejecting the petition filed by the petitioners.

In the result, this application stands dismissed.

(Anil Kumar Sinha, J)

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