

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.48 of 2018

Subash Prasad Son of Late Ram Chandra Sah, Resident of Mohalla-
Salempur, Police Station- Chapra Town, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. Sheo Shankar Prasad
2. Ramashankar Prasad,
3. Jawahir Prasad, All 1 to 3 are sons of Mishri Lal Sah, All 1 to 3 are residents of Mohalla- Salempur, Police Station- Chapra Town, District- Saran at Chapra.
4. Dahari Mahto, Son of Late Sugrim Mahto,
5. Most. Sharda Kuwar, Wife of Late Shyam Babu Sah,
6. Surendra Kumar Sah,
7. Chandan Kumar,
8. Deepak Kumar, All 6 to 8 are sons of Late Shyam Babu Sah, All 4 to 8 are residents of Village- Telpa, Police Station- Chapra Town, District- Saran at Chapra.
9. Most Kauleshwari Kuwar, Wife of Late Ram Janam Prasad,
10. Anil Kumar,
11. Raj Kumar,
12. Sushil Kumar,
13. Pankaj Kumar, all 10 to 14 are sons of Late Ram Janam Prasad,
14. Sarda Devi,
15. Sabita Devi,
16. Sunita Devi,
17. Kiran Devi,
18. Mithilesh Prasad, Son of Late Lachhuman Prasad, all 9 to 18 are residents of Village- Bara Telpa, Police Station- Chapra Town, District- Saran at Chapra.
19. Naresh Prasad, Son of Late Ram Chandra Sah,
20. Urmila Devi, D/o Late Ram Chandra Sah, W/o Brij Bihari Sah,
21. Jiwan Prasad, Son of Late Asarfi Sah,
22. Rajan Kumar,
23. Niraj Kumar,
24. Rajat Kumar, All 22 to 24 are Sons of Jiwan Prasad, All 19 to 24 are residents of Mohalla- Salempur, Police Station- Chapra Town, District- Saran at Chapra.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Narendra Kumar, Advocate.
Mr. Prakash Ranjan Sinha, Advocate.
For the Respondent/s : Mr. Chandra Kant, Advocate
Mr. M.C. Ganorhi, Advocate.
Mr. Navin Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

10 14-11-2022 Heard Mr. Narendra Kumar, learned counsel for the petitioner and Mr. Chandra Kant, learned counsel for the respondents.

The petitioner is aggrieved by the order dated 17.8.2017 by which the learned Trial Court has rejected the petition for amendment filed by the petitioner. The suit bearing Title Suit No. 223 of 1989 was filed by the petitioner/plaintiff for declaration of title upon the suit property. The suit proceeded and evidence of both the parties came to an end. The arguments of defendants/respondents have also closed.

At this stage, the petitioner/plaintiff filed an amendment petition for payment of the court fee and for seeking amendment in the relief portion of the plaint in the nature of declaration that sale deed dated 24.8.1987 as well as sale deed dated 17.11.1989 are null and void.

Learned counsel for the petitioner submits that the learned Trial Court has rejected the application for amendment mainly on the ground that the suit is very old and there is



direction of Hon'ble Court to dispose the suit expeditiously.

On the other hand, learned counsel for the respondents submits that from perusal of the amendment petition and proposed amendment it transpires that no foundational fact has been given by the petitioner/plaintiff in the amendment petition as to why these sale deeds are null and void. He further submits that the description of land involved in the sale deeds as well as the Schedule-I of the plaint on which the petitioner/plaintiff is seeking declaration of title is also not clarified or stated by the petitioner. Accordingly, his submission is that at the belated stage of the suit and at the stage of argument, the plaintiff has filed a frivolous and unnecessary amendment in order to delay the disposal of the suit. The amendment sought by the petitioner is not *bona fide*.

I have heard learned counsel for the parties and have perused the materials available on record.

From perusal of the plaint and Schedule-I of the plaint, it transpires that the plaintiff/petitioner is seeking a declaration of title upon the Schedule-I property, but from the proposed amendment, it does not appear that the sale deeds which the petitioner is trying to challenge, is having any connection and/or relation with the suit property as described in



Schedule-I of the plaint inasmuch as in the entire plaint and in the proposed amendment it has not been stated by the plaintiff as to how the property involved in the sale deeds are the same property which is the subject matter of Schedule-I of the plaint. Accordingly, in my opinion, the petitioner has filed the amendment petition at the fag end of the suit in order to delay the disposal of the suit and the same is not *bona fide*.

In view of the aforesaid discussion, in my opinion, the impugned order does not require any interference by this Court.

Accordingly, this application stands dismissed.

(Anil Kumar Sinha, J)

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