

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.322 of 2018

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Afsana Khatoon @ Afsana Perween wife of Mohammad Wahid Ali, resident of Village- Sakri, Saraiya, P.S.- Kudhani, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. Mohammad Wahid and Ors son of Late Mohammad Safi, resident of Village- Sakri, Saraiya, P.S.- Kudhani, District- Muzaffarpur.
2. Mohammad Islam,
3. Mohammad Salam,
4. Mohammad Jahid, All sons of Late Mohammad Safi and all residents of Village- Sakri Saraiya, P.S.- Kudhani, District- Muzaffarpur.
5. Biwi Naima Khatoon, Wife of Mohammad Islam, resident of Village- Sakri, Saraiya, P.S.- Kudhani, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For Petitioner/s :

Mr. Pandey Bipul Kumar

Mr. Birendra Kumar, Advocates.

For Respondent No. 2 & 5:

Mr. Chakrapani

Mr. Madhuresh Singh

Mr. Amritanusu Udhav, Advocates.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 19-07-2022 Heard Mr. Pandey Bipul Kumar, learned counsel for

for the petitioner and Mr. Chakrapani, learned counsel appearing

for Respondents No. 2 and 5.

As per office notes, notices upon Respondents No. 1,
3, and 4 have validly been served.

The present application arises out of an order dated
12.08.2016 passed in a Partition Suit No. 508/2007 by Sub
Judge VIII, Muzaffarpur whereby an intervener petition has
been rejected.



A suit for partition was filed by the husband of the petitioner in which the mother and other brothers of the plaintiff were made defendants. The intervener/petitioner herein is wife of the plaintiff and she has filed a petition under Order 1 Rule 10 for impleading her as defendant in the suit on the ground that on 06.05.2010, the defendant no.1 i.e., mother of the plaintiff had executed a registered gift deed in her favour pertaining to the suit property to the extent of seven decimals.

Learned counsel for the petitioner submits that during pendency of the suit the registered gift deed was executed, therefore, she is a proper party in the present suit.

On the other hand, learned counsel for the respondents submits that mother of plaintiff/defendant No.1 had sworn and filed an affidavit on 24.11.2008 that she has relinquished her share in favour of all her four sons.

However, both the parties with consent submit that since the suit is of the year 2007 and the same is pending for about 14 years, the impugned order may be quashed and petitioner may be allowed to be impleaded as party with a further direction to the learned trial court to dispose the suit on day-to-day basis within a period of one year.

With the consent of the parties, the impugned order



dated 12.08.2016 passed in a Partition Suit No. 508/2007 is,
hereby, set aside.

Petitioner is directed to be impleaded as defendant in
the suit. Learned trial court is further directed to dispose the suit
on its own merit expeditiously preferably within a period of one
year from the date of receipt/production of a copy of this order.

With the aforesaid direction, the petition is allowed.

(Anil Kumar Sinha, J)

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