

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.762 of 2022

1. Manisha Devi Wife of Rajesh Kumar Agrawal Resident of Mohalla- Sheo Puri Colony, Ward No. 22, Post Office, Bettiah Police Station, Bettiah Town, District- West Champaran.
2. Gulam Rabbani Son of Late Abdul Samad Resident of Mohalla Dargah, Ward No. 22, Post Office- Bettiah, Police Station- Bettiah Town, District- West Champaran.

... .. Petitioner/s

Versus

1. Byas Prasad Son of Late Ganesh Sah resident of Mohalla Kalibagh, Post Office- Bettiah, Police Station- Bettiah Town (Kalibagh O.P.), District- West Champaran.
2. Sandeep Kumar Son of Late Brijesh Prasad resident of Mohalla Kalibagh, Post Office- Bettiah, Police Station- Bettiah Town (Kalibagh O.P.), District- West Champaran.
3. Sanni Kumar Son of Late Brijesh Prasad resident of Mohalla Kalibagh, Post Office- Bettiah, Police Station- Bettiah Town (Kalibagh O.P.), District- West Champaran.
4. Satish Kumar Son of Late Brijesh Prasad resident of Mohalla Kalibagh, Post Office- Bettiah, Police Station- Bettiah Town (Kalibagh O.P.), District- West Champaran.
5. Satish Kumar Son of Late Brijesh Prasad resident of Mohalla Kalibagh, Post Office- Bettiah, Police Station- Bettiah Town (Kalibagh O.P.), District- West Champaran.
6. Ram Prasad Agrawal son of Late Jagarnath Prasad Agrawal resident of Lal Bazar, Post Office and Police Station- Bettiah Town, District- West Champaran.
7. Laxman Prasad Agrawal son of Late Jagarnath Prasad Agrawal resident of Lal Bazar, Post Office and Police Station- Bettiah Town, District- West Champaran.
8. Usha Devi Wife of Harendra Kishore Singh resident of Village Banchari, Post Office and Police Station- Bagaha, District- West Champaran.
9. Anishur Rahman Son of Late Md. Haneef, Resident of Village, Murali, Police Station- Sikta, Present Police Station- Balthar, Post Office- Sikta, District- West Champaran.
10. Bibi Misrun Nessa Wife of Mustaque Ahmad Resident of Village- Bastha, Post Office- Bastha, Police Station- Mainatad, District- West Champaran.
11. Md. Eqbal Son of Late Md. Haneef Resident of Village Murali, Police Station- Sikta, Present- Balthar, Post Office- Sikta, District- West Champaran.

... .. Respondent/s

Appearance :



For the Petitioner/s : Mr.Shiv Kumar Dwivedy
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 25-11-2022 The petitioners are the defendant nos. 7 & 8 in Title Suit No. 14 of 2019 filed by the plaintiffs-respondents for setting aside the sale deeds, for confirmation of possession and for restraining the defendants from interfering with the title and possession of the plaintiffs.

The petitioners are aggrieved by the order dated 18.07.2022 by which pre trial amendment in the plaint proposed by the plaintiffs -respondents have been allowed. The suit is at initial stage and out of eight defendants only defendant nos. 7 & 8 have appeared and have filed their written statement. Admittedly issues have not yet been framed in the suit. At this juncture the plaintiffs- respondents filed an amendment petition seeking amendment in the plaint on the basis of subsequent events which according to the plaintiffs is, that during pendency of the suit the plaintiffs have been dispossessed from the suit land and sought a further relief for recovery of possession.

The learned trial court has allowed the amendment on the ground that the suit is at initial stage and amendment sought by the plaintiffs to bring subsequent events on record would be relevant for adjudicating the real issues between the parties.



Learned counsel for the petitioners submits that before filing of the suit Section 144 Cr.P.C. proceeding was initiated between the plaintiffs and the defendant no. 7 in which the learned S.D.O. has passed the order that the Central Bank of India after verification has sanctioned home loan in favour of the defendant no. 7 after commencement of the construction work. He further submits that plaintiffs- respondents were never in possession of the suit property and therefore is not entitled to be given relief of restoration of possession.

I have heard learned counsel for the petitioners and have perused the materials available on record. It is an admitted position that the suit is at initial stage and the trial has not yet commenced. The plaintiffs – respondents have sought the amendment of plaint to bring on record the subsequent events and consequential relief thereof. The merit of the amendment cannot be seen at this stage. The petitioners-defendants will have the opportunity to rebutt the claim of the petitioners by way of filing additional written statement if so advised. The amendment in question does not change the nature of the suit and no prejudice shall be caused to the petitioners if the amendment is allowed.

In view of the aforesaid discussions, in my opinion,



no interference with the impugned order is required by this court.

Accordingly, this application is dismissed.

(Anil Kumar Sinha, J)

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