

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.747 of 2022

1. Parvati Devi Wife of Brindawan Prasad Resident of Village and P.O. and P.S.- Parasi, District- Arwal.
2. Brindawan Prasad, Son of Late Bagwan Das Sah Resident of Village and P.O. and P.S.- Parasi, District- Arwal.

... .. Petitioner/s

Versus

1. Kiran Devi Wife of Sanjay Kumar Resident of Village and P.O. and P.S.- Goh, District- Aurangabad.
2. Vidya Sagar Prasad, Son of Late Bhagwan Das Sah Resident of Village and P.O. and P.S.- Parasi, District- Arwal.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bindeshwar Prasad Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 23-11-2022 The petitioners-plaintiffs are aggrieved by the order, dated 27.07.2022, passed in Title Suit No. 02 of 2020, by which learned Sub Judge-I, Arwal, has allowed the petition filed by the defendants for consolidated trial of Title Suit No. 02 of 2020 and Title Suit No. 38 of 2019.

The respondent no. 2, Vidya Sagar Prasad, who is the own brother of the petitioner no. 2 executed registered deed of gift on 31.03.2019 in favour of petitioner no. 1. After execution of the deed of gift, the respondent no. 2 executed deed of cancellation on 05.04.2019 and executed a fresh deed of gift on 09.10.2019 in favour of defendant no. 2 pertaining to Schedule-A property.



The plaintiff has filed Title Suit No. 02 of 2020 for declaration of title on the basis of registered deed of gift, dated 31.03.2019 with respect to Schedule-A property of the plaint as well as for declaration that the deed of cancellation, dated 05.04.2019 and deed of gift, dated 09.10.2019, are void and illegal. The respondent, Kiran Devi and others filed Title Suit No. 38 of 2019 for cancellation of deed of gift, dated 31.03.2019, executed by respondent no. 2 in favour of petitioner no. 1.

Learned Counsel for the petitioners submits that the learned Trial Court has committed material irregularity by clubbing the two suits under Section 151 of the Code of Civil Procedure without appreciating that the relief sought in the two suits are different and the nature of both the suits are also not similar.

I have heard learned Counsel for the petitioners and have gone through the materials available on record, including the impugned order.

It appears that the property in question jointly belong to Vidya Sagar Prasad, his daughters and his two wives, namely, Sonajhari Devi and Subhawanti Devi. Both the suits are based on the same facts and in both the suits, the genuineness and



validity of the gift deeds executed by Vidya Sagar Prasad, have to be decided. In both the suits, facts were overlapping and in case of separate trial of the suits, there is chance of conflicting judgment/decrees. The adjudication of the issues involved in one suit will have a direct impact upon the other suit.

The Supreme Court, in the case of **Mahalaxmi Cooperative Housing Society Limited and Others v. Ashabhai Atmaram Patel (Dead) through L.Rs. and Others**, reported in **(2013) 4 SCC 404**, has held that there is no specific provision in the Code of Civil Procedure for consolidation of suits and such power has to be exercised only under Section 151 of the Code of Civil Procedure. It has further been observed by the Supreme Court, in **Mahalaxmi Cooperative Housing Society Limited** (supra) that the purpose of consolidation of suits is to save costs, time and effort and to make the conduct of several actions more convenient by treating them as one action.

For the reasons stated herein above, I am in agreement with the opinion of the learned Trial Court that for the purpose of saving cost, time and effort and for proper adjudication of the issues involved in the suits and in order to prevent multiplicity of proceeding, delay and expenses, it is necessary to club both the suits together.



In view of the aforesaid discussion, the impugned order does not warrant any interference by this Court.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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