

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.243 of 2019

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Laxman Prasad Sah @ Laxman Prasad Sha,

... .. Petitioner/s

Versus

Ashok Kumar Prasad,

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhaneshwar Prasad Gupta, Advocate

For the Respondent/s : Mr. Mayank Rukhaiyar, Advocate

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

9 10-11-2022 Heard learned counsel for the petitioner and learned
counsel for the opposite party.

The Civil Revision Application has been filed against the order dated 22.11.2019 passed by Sub-Judge-III, Purnia in Title Suit No. 13 of 2015 whereby the petition filed by the petitioner challenging the compromise decree dated 02.04.1996 has been rejected.

The opposite party, namely, Ashok Kumar Prasad was original decree holder in Title Suit No. 72 of 1992 as the compromise decree by which schedule 'F' was allowed to the plaintiff and other properties were given to other parties. Title Suit No. 13 of 2015 has been filed by Ashok Kumar Prasad and a relief was sought to declare by the Court that according to the compromise decree of title suit no. 72 of 1992, Sudha Mukharjee, the mother of the defendant nos. 1, 2 and 3 are bound to deliver the vacant possession of an area measuring 110 Sq. Feet to plaintiff no. 2, namely, Ashok Kumar Prasad from



eastern side of the Schedule “L” of compromise decree of Title Suit No. 72 of 1992 which has been shown in Lot 11 of Schedule ‘A’ of the suit land and in red colour in the traced map attached with the plaint in lieu of share of the plaintiff in Schedule ‘M’ land of compromise decree of Title Suit No. 72 of 1992 which has been shown in Lot-1 of Schedule ‘A’ of the suit land and in green colour in the trace map attached with the plaint.

On 08.11.2019, the petitioner filed a petition before Sub Judge-III, Purnia in Title Suit No. 13 of 2015 challenging the compromise decree dated 02.04.1996 passed in Title Suit No. 72 of 1992.

Learned counsel for the petitioner submits that the compromise decree is not in accordance with law, because no notice has been given to the first defendant in Title Suit No. 72 of 1992 and therefore, the compromise decree is invalid in the light of order 23 Rule 2B of the Civil Procedure Code. It is also submitted that the learned lower court below while passing the compromise decree have erred in law as it was signed by only 19 out of 30 defendants and that too only in the first and last page leaving the main pages where the schedules were attached unsigned.



Learned counsel for the opposite party appeared suo moto in the instant revision and states that the application dated 08.11.2019 filed by the petitioner is not maintainable and that he cannot take plea of the decree being unlawful in this Title Suit No. 13 of 2015 which has been filed to enforce the compromise decree and delivery of possession as per the compromise decree dated 02.04.1996.

The petition filed by the defendant petitioner challenging the compromise decree dated 02.04.1996 is not maintainable as the instant suit is exclusively for enforcement of the terms of the compromise decree and delivery of possession according to the decree. However, if the petitioner is aggrieved by the compromise decree, he is to move before a proper forum and this is not right forum.

For the aforesaid reason, the learned trial court has rightly rejected the application of defendant No. 6 (petitioner).

Accordingly, this Civil Revision Application stands dismissed.

(Khatim Reza, J)

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