

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.138 of 2020

1. Rabindra Singh Son of late Shivnandan Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
2. Amit Kumar, Son of Sri Rabindra Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
3. Sumit Kumar, Son of Sri Rabindra Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
4. Sujeet Kumar, Son of Sri Rabindra Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.

... .. Petitioner/s

Versus

1. Ganesh Prasad Singh Son of late Shivnandan Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
2. Smt. Urmila Devi, Ganesh Prasad Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
3. Lala Shahi Bhushan Prasad Singh, Son of late Kaushal Kishore Prasad Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
4. Ram Uday Singh, Son of late Yadunandan Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
5. Ram Binod Singh, Son of late Yadunandan Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
6. Pintu Singh, Son of late Yadunandan Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
7. Arun Kumar Singh, Son of late Sahdeo Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
8. Santosh Singh, Son of late Tarini Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
9. Laxmi Singh, Son of late Ramjee Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
10. Manoj Kumar, Son of Sri Laxmi Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
11. Saroj Kumar, Son of Laxmi Singh, Resident of Village- Naokothi, P.S. Naokothi, Sub Division- Bakhri, District- Begusarai.
12. Manjula Devi, D/o Raghunandan Singh and W/o Bhola Singh, R/o Village- Chilhai, P.S. Teghra, District- Begusarai.
13. Sanjula Devi, D/o Raghunandan Singh, W/o Kasheb Kumar, R/o Village- Rampur, P.S. Bakhri, District- Begusarai.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Pramod Kumar Sinha, Adv.
Mr.Arvind Kumar Sharma
For the Respondent/s : Mr.Ravi Shanker Pankaj

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 26-09-2022 A jointness affidavit has been filed stating therein in paragraph nos. 1 & 2 that the respondent nos. 5 & 6 are living jointly with the respondent no. 4 and notice of the respondent nos. 5 & 6 has been received by the respondent no.-4 and they are in jointness. Similarly, notices issued upon the respondent nos. 9, 10 & 11 has been received by one Brajesh Kumar, who resides in the same house in jointness which has been stated in paragraph no.- 2 of the jointness affidavit. Accordingly, notices issued upon the respondent nos. 5, 6, 9, 10 & 11 are treated to be validly served.

Learned counsel for the respondent no. 3 is present.

Heard Mr. Pramod Kumar Sinha, learned counsel for the petitioners and Mr. Ravi Shanker Pankaj, learned counsel for the respondents.

The petitioners are aggrieved by the order dated 16.05.2019 and 21.10.2019 passed by learned Munsiff, Bakhri in T.S. No. 2 / 2012 by which two documents, which are certified copy of the sale deeds produced by the petitioners - plaintiffs as a piece of documentary evidence have not been



accepted by the trial court on the grounds that firstly the provision of law in the petition filed for bringing the documents on record is not correctly stated and secondly it has been rejected by the impugned order dated 21.10.2019 on the ground that earlier similar petition filed by the petitioners was rejected.

Learned counsel for the petitioners submits that petitioners have filed a suit for declaration of title upon the suit property, confirmation of possession and alternatively, if the plaintiffs are found dispossessed, decree for recovery of possession was also sought. He further submits that plaintiffs' evidence was closed and evidence of defendants is going on. He next submits that petitioners were not in the knowledge of certain documents, which are the sale deeds executed on 05.08.1970 bearing sale deed nos. 14677 & 14678 relating to plot nos. 3647 & 3648 and after having got the knowledge of the same, petitioners procured certified copy of the two sale deeds and produced before the trial court for accepting it as a piece of documentary evidence, which has been rejected on the ground that petition has not been filed under correct provision of law. Submission is that though the documents are old but it was not within the knowledge of the petitioners and after having got the knowledge of the documents the petitioners obtained



certified copy and both the sale deeds which are public documents and are relevant for just and effective decision of the suit inasmuch as in the southern boundary of the plots as given in the sale deeds, name of father of defendant no. 1 is mentioned, which will go to show that plaintiffs got the suit property in a family partition. To substantiate his arguments learned counsel relies upon a judgment of the Hon'ble Supreme Court reported in **(1994) 4 Supreme Court Cases 659 Billa Jagan Mohan Reddy and Another versus Billa Sanjeeva Reddy and Others** for the proposition that delay in producing documentary evidence before settlement of issues and its condonation need not be as rigorous as required under Section 5 of the Limitation Act. In the facts of the case the documents produced before the trial court at the stage of argument was refused on the ground of delay and the trial court refused to condone the delay. The Supreme Court held that explanation for delay need not be as rigorous as required under Section 5 of the Limitation Act and held that the trial court erred in refusing to condone the delay and accepting the documents.

On the other hand, learned counsel appearing for the respondent no. 3, who is the vendor of the suit land in favour of the defendants being the brother of the plaintiffs submits that



evidence of defendants has also been closed and at the stage of argument of the suit the present petitions for accepting documentary evidences have been filed by the petitioners-plaintiffs which may not be accepted being filed after much delay and in order to delay disposal of the suit.

I have heard learned counsel for the parties. It appears that the learned trial court has refused to accept documentary evidences which are admittedly public documents merely on the ground that earlier similar petition was dismissed which was filed under wrong provision of law. Learned trial court has not gone into relevancy of the documents and the explanation given by the petitioners that documents were not in the reach and knowledge of the petitioners and after having got the knowledge and after obtaining certified copy of the sale deeds the petitioners produced the same for accepting the same as documentary piece of evidence being public documents.

In view of the submissions made by the petitioners that the documents produced by the petitioners are relevant for the just decision of the suit, this application is allowed.

The trial court is directed to receive the documents produced by the petitioners and ask the petitioners to prove the documents and if necessary, opportunity to the respondents to



rebut the same be given by the trial court.

This application is accordingly allowed.

(Anil Kumar Sinha, J)

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