

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.745 of 2018

Shri Ram Nandan Sharma S/o Late Kamta Sharma, Resident of Village-
Badauni, P.O. and P.S.- Parbalpur, District- Nalanda.

... .. Petitioner/s

Versus

1. Shri Ram Niwas Kumar S/o Ram Bachchan Sharma, resident of Village-
Bhadauni, P.O. and P.S. Parbalwal, Dist- Nalanda, at present residing at
Chandmari Road, Chitragupta Path, Corner Patralaya, Lohia Nagar, P.S.-
Kankarbagh, Dist- Patna.
2. Tushar Gautam, minor S/o Shri Ram Niwas Kumar, Minor under the
guardianship of father Shri Ram Niwas Kumar, Resident of Village-
Bhadauni, P.O. and P.S. Parbalwal, Dist- Nalanda, at present residing at
Chandmari Road, Chitragupta Path, Corner Patralaya, Lohia Nagar, P.S.-
Kankarbagh, Dist- Patna.
4. Smt. Shanti Devi, W/o Ram Bachchan Sharma, Resident of Village-
Bhadauni, P.O. and P.S.- Parwalpur, Dist- Nalanda.
5. Smt Usha Devi, W/o Sujeet Kumar, Resident of Village- Rampur, P.O. and
P.S.- Ghoshi, Dist- Jehanabad, at present residing in Mohalla- R.P.S. College
Campus, Baily Road, P.S. and P.O.- Danapur, Distt- Patna.
6. Smt Meera Devi, W/o Shri Ajay Kumar Resident of Village- Khudauri, P.O.
and P.S.- Hulasganj, Dist- Jehanabad.
7. Smt Nisha Devi, W/o Shri Pankaj Kumar, Resident of Village Neema, P.O.
and P.S.- Nadama, Dist- Patna.
8. Madhu Kumari, daughter of Ram Bachchan Sharma, resident of Village-
Badauni, P.O. and P.S.- Parwalpur, Dist- Nalanda.
9. Mala Kumari, daughter of Ram Bachchan Sharma, Resident of Village-
Badauni, P.O. and P.S.- Parwalpur, Dist- Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

16 02-11-2023 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the Respondents.

2.

2. The present application has been filed for quashing the



order dated 15.03.2018 passed by Sub-Judge 1st, Hilsa, Nalanda, in Title Suit No. 93 of 2007 by which the amendment application dated 24.04.2017 filed by the plaintiffs has been allowed.

3. Learned counsel for the petitioner has submitted that the amendment application has been filed after a great delay and the five sale deeds have been challenged by way of amendment application after a lapse of three years of filing of the written statement by the defendants and therefore, the amendment application was barred by limitation and the same could not have been allowed and he also submits that the trial had begun inasmuch as issues have been framed therefore, the amendment application could not have been allowed. He has also submitted that the decree of Title Suit No. 23 of 2006 has been challenged and is barred by limitation.

4. Learned counsel appearing on behalf of the Respondents has submitted that the filing of the amendment petition was delayed because of the non-availability of the five sale deeds and only after they were directed to be produced by the petitioner, the same were made available to the Respondents and thereafter, the amendment application was filed after examining the sale deeds. Learned counsel for the plaintiffs-



Respondents also submitted that despite their great efforts, the certified copies of the sale deeds were not supplied to them and therefore, there was delay in filing the amendment application, but from the date of knowledge of the sale deeds, the amendment application is within time. He has further submitted that because of the non-availability of the records, the amendment application was filed when the records were not supplied to them and therefore, the amendments were not barred by limitation.

5. I have considered the submissions of the parties.

6. Whether the decree of Title Suit No. 23 of 2006 is barred by limitation or not can be decided in the suit by framing an additional issue and in my opinion, this Court will not interfere at this stage in such an amendment when it is not *malafide* or does not challenge the nature of the suit.

7. There is no jurisdictional error in the impugned order and this application is dismissed.

8. The court below is directed to proceed with the main suit without granting unnecessary delay and will try to conclude the same within a year.

(Sandeep Kumar, J)

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