

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.42 of 2011

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Mansoor Saifi, son of late Aziz Saifi, (Expunged)
A1(a) Rashidan Bibi, wife of Mansoor Saifi,
A1(b) Seraj Saifi, son of Mansoor Saifi,
A1(b) Zafaran Saifi, son of Mansoor Saifi,
A1(d) Asrar Ali, son of Mansoor Saifi,
A1(e) Janab Hussain Saifi, son of Mansoor Saifi,
A1(f) Amwaza Khatun, daughter of Mansoor Saifi,
A1(g) Romi Khatoon, daughter of Mansoor Saifi,
A1(h) Chandani Khatoon, daughter of Mansoor Saifi,
A1(i) Sambaya Bibi, daughter of Mansoor Saifi
A1(j) Sahida Khatoon, daughter of Mansoor Saifi,
A1(k) Sakina Khatoon, daughter of Mansoor Saifi,
All resident of village- Lakri Dargah, Tole- Nurhata, Police Station-
Barharia, District- Siwan

... .. Appellant/s

Versus

Bhola Bhagat, son of Dhanraj Bhagat, resident of village- Phulgani, PS-
Thave, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Raghav Prasad, Advocate
For the Respondent/s : Mr. Shailendra Kr. Dwivedi, Advocate

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

12 24-08-2023

Interlocutory Application No. 01 of 2021

Learned counsel for the appellants seeks permission
to withdraw this appeal in the interest of the parties.

2. Learned counsel for the appellants submits that this
interlocutory application has been filed under Order 23 Rule 3
read with Section 151 of the Code of Civil Procedure for
compromising this first appeal in terms of the statement made in
paragraph no. 2 of the interlocutory application, which reads as
follows:

*2. That at the instance of friends family, well
wisher, and relatives of the parties
irrespective of different statement made by*



either of the parties and evidences led by them, the suit and the appeal has been agreed to be compromised on the following terms and conditions:-

(i) That the land in question relating to Khata No. 43, Survey No. (Mi) 342, Area 3 Kathas and 10 dhurs equivalent to 13 decimals of Village Fulugani, P.S.- Thawe, District- Gopalganj, is on the peaceful possession of the respondent namely Bhola Bhagat upon which he constructed his Bathans cum residential house and it will remain in his exclusive title and possession.

(ii) That respondent has given rupees one lakh and twenty thousands to the appellant apart from the decreetal amount which appellant received and appellant is at liberty to withdraw the decreetal amount of Rs. one lakh fourty thousands from the learned Court below which has already deposited by the respondent.

(iii) That the sale deed dated 02.04.2015 executed in favour of respondent with regard to the aforesaid land has been accepted by the appellant as an absolute sale deed in all respect.

3. The aforesaid interlocutory application was filed originally by the sole appellant and the sole respondent with their affidavits as part of the interlocutory application. It is submitted that during the pendency of this interlocutory application, the sole appellant died and thereafter a substitution petition was filed for substituting the heirs of the sole appellant vide I.A. No.02 of 2022, which was allowed on 21.06.2023 and the heirs and legal representatives of the sole appellant were substituted. It is further submitted that a supplementary affidavit has been filed on behalf of the substituted heirs and legal



representatives of the sole appellant acknowledging and accepting the compromise petition filed by their father.

4. Learned counsel appearing for the sole respondent also supports the contention of the learned counsel for the appellants.

5. In the facts and circumstances of the case and in view of the averments made in the interlocutory application as well as supplementary affidavit, this first appeal is disposed of as withdrawn in terms of the statement made in paragraph no. 2 of the interlocutory application, which has been quoted above.

6. Interlocutory Application No. 01 of 2021 also stands disposed of.

7. The heirs of the sole appellant will be at liberty to withdraw the decretal amount of Rs.1,40,000/-, which has been deposited by the respondent for which the respondent has no objection.

8. Office is directed to send the lower court records to the Court concerned positively within a period of two weeks.

9. Pending interlocutory application, if any, stands disposed of.

(Khatim Reza, J)

J. Alam/-

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