

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1457 of 2018

Triveni Prasad son of late Ram Chandra Prasad Resident of Mohalla
-Daulatganj, P.s. Bhagwan Bazar Chapra, District- Saran

... .. Petitioner/s

Versus

1. Dasai Sah Son of Late Mohan Sah Resident of village - Khaira, P.S. Jalalpur, District - Saran.
2. Pintu Sah Son of Late Mohan Sah Resident of village - Khaira, P.S. Jalalpur, District - Saran.
3. Deilip Sah Son of Late Mohan Sah, Resident of village - Khaira, P.S. Jalalpur, District - Saran.
4. Shankar Sah Son of Late Mohan Sah, Resident of village - Khaira, P.S. Jalalpur, District - Saran.
5. Pramod Sah son of late Mohan Sah Resident of village - Khaira, P.S. Jalalpur, District - Saran.
6. Most. Janki Devi, widow of late Mohan Sah Resident of village - Khaira, P.S. Jalalpur, District - Saran.
7. Basudeo Sah Son of Late Raghunath Sah, Resident of village - Khaira, P.S. Jalalpur, District - Saran.
8. Ranglal Sah Son of Late Raghunath Sah, Resident of village - Khaira, P.S. Jalalpur, District - Saran.
9. Khedu Sah Son of late Raghunath Sah Resident of village- Khaira P.S. Jalalpur, Dist.- Saran.
10. Kishun Prasad son of Ram Lagan Sah Resident of Noor Nagar, P.S. Jalapur, Dist.- Saran

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Naresh Chandra Verma, Advocate
Mr. Natraj Verma, Advocate
For Respondent No4& 5 : Mr.Nirmal Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

10 28-08-2023

Heard the parties.

2. The application has been filed for quashing of order dated 16.05.2018 passed by learned Munsif-1st Class, Saran at Chapra in Execution Case No. 03 of 1985 by which learned Magistrate has rejected the amendment petition filed by the petitioner.

3. Learned counsel for the petitioner has submitted



that after decision of the suit in the court below, the petitioner had filed the execution case and subsequently he has filed amendment petition that he has replaced the thatch roof (*chhapar*) of the house and constructed cemented roof over the house in question. He further submits that the present application has been rejected by learned Munsif on the ground that date of the construction of the cemented roof has not been given in the amendment petition.

4. In the opinion of this Court, this kind of hyper technicality should not have been adopted by the court below while deciding the amendment petition filed by the petitioner. The amendment petition filed by the petitioner is not changing the nature of the suit or is not *mala fide* but it is *bona fide*. Moreover, none of the parties had opposed the amendment petition filed by the petitioner in the court below.

5. In view of the above, this application is allowed. The impugned order dated 16.05.2018 passed by learned Munsif-1st Class, Saran at Chapra in Execution Case No. 03 of 1985 is hereby quashed in the interest of justice.

(Sandeep Kumar, J)

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