

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.104 of 2019

Binod Kumar Pandey Son of Late Sabhapati Pandey Resident of Village-
Jagdishpur, PS- Pirpanti, District- Bhagalpur.

... .. Petitioner/s

Versus

1. Bharat Bhushan Rai Son of Late Ram Chandra Rai Resident of Village-
Shermari, PS- Pirpanti, District- Bhagalpur.
....Plaintiff-Opposite Party 1st set
2. Vijay Kumar Rai Son of Late Ram Chandra Rai Resident of Village-
Jagdishpur, PS- Pirpanti, District- Bhagalpur.
.... Defendant No.3-Opposite Party 2nd set
3. Jay Kumar Pandey Son of Late Sabhapati Pandey Resident of Village-
Jagdishpur, PS- Pirpanti, District- Bhagalpur.
....Defendant No.2-Opposite party 3rd set

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Madan Mohan
For the Respondent/s : Mr.Avinash Chandra

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

CAV ORDER

11 13-12-2023 I have already heard the learned counsel for the
parties.

2. The defendant/petitioner has filed the present
revision application being aggrieved by the order dated
31.01.2019 passed by the learned Sub Judge, Kahalgaon in Title
Suit No. 51 of 2017, whereby and whereunder the petition filed
by the petitioner/defendant nos. 1 and 2 dated 14.09.2018 under
Order VII, Rule 11 of the Code of Civil Procedure, hereinafter
to be referred to as 'the CPC', was rejected and the learned trial
court refused to reject the plaint under the provision of Order
VII, Rule 11 of the CPC.

3. Title Suit No. 51/2017 was filed by the
plaintiff/respondent claiming over the suit land as absolute



owner as it was acquired by the plaintiff through a deed of gift dated 07.08.1975. The plaintiff also acquired some property of the suit land through an exchange deed dated 29.04.1989 from the father of the defendant 1st party. Despite the suit land being obtained through a deed of exchange by the plaintiff, the defendant first party executed a sale deed in respect of that land. Schedule-B property was obtained by the plaintiff through exchange dated 07.18.2014 which was entered into between defendant first party and plaintiff, but ignoring this fact the defendant first party executed the sale deed in respect of that land.

4. The learned counsel for the petitioner submitted that the learned court below failed to appreciate the fact that the plaintiff did not disclose the cause of action, due to which the plaint was liable to be rejected. He submitted further that the plaintiff has not claimed any relief of title over the suit land and without seeking the same relief, the sale deed executed by the defendant first party dated 07.08.2014 has been assailed by the plaintiff.

5. The learned counsel for the opposite parties has submitted that the impugned order itself shows that the title over the suit land was also claimed by the plaintiff and the cause of



action has been disclosed in paragraph-7 of the plaint.

6. Though the petitioner has failed to annex the certified copy of the plaint with this revision petition, but it has clearly been mentioned in the impugned order that the cause of action has been disclosed in paragraph-7 of the plaint. The impugned order itself reveals that the plaintiff not only disclosed the cause of action, but also claimed ownership of the land in dispute through the deed of exchange entered into between the defendant first party as well as his father.

7. The petition filed by the petitioner/defendant under Order VII, Rule 11 of the CPC does not disclose as to under which clause of Rule 11 of the CPC the grounds for rejection of the plaint was filed.

8. In my view, there is no merit in this civil revision application. The impugned order is well-reasoned. Accordingly, this civil revision application stands dismissed.

(Nawneet Kumar Pandey, J)

HR/-

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