

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No. 797 of 2017

1. Kundala Devi wife of Late Rameshwar Prasad and D/o- Late Krit Narayan Rai @ Krit Gope
2. Bijay Kumar
3. Ajay Kumar
4. Sanjay Kumar
All sons of Late Rameshwar Prasad
All residents of Mohalla-Chakaram, P.O.-G.P.O., P.S.-Budha Colony, Patna

.....Plaintiffs-Petitioners

Versus

1. Ashok Kumar
 2. Shiv Chandra Kumar
 3. Bijendra Kumar
 4. Satendra Kumar
All sons of Late Adya Prasad, Resident of village-Khedalpura, P.O. + P.S.-Bihta, District Patna.
-Defendant 3rd Set-Respondent 1st Set
5. Laxman Rai son of Late Rikhi Rai and Late Girja Devi
 6. Ramjee Rai son of Late Rikhi Rai and Late Girja Devi
Both residents of village Bhatheri, P.O.-Bank, P.S. Maner, District-Patna
 7. Ramesh Kumar
 8. Ganesh Kumar
Both sons of Late Nihora Rai
All residents of Village-Hassanpura, P.O. Bedauli, P.S.-Bhagwanganj, District-Patna

.....Defendants 3rd Set-Respondent 2nd Set

Versus

9. Tarakeshwar Prasad @ Gupta son of Late Sri Kishun Rai, R/o- village - Mokinpur (Harpura), P.O.+P.S.-Dulhin Bazar, District Patna

.....Defendants 1st Set-Respondent 3rd Set

10. Raj Kumar Rai
11. Ram Singhashan Rai
All sons of Sri Chandrama Rai
All residents of Village-Hassanpura, P.O. Bedauli, P.S.-Bhagwanganj, District-Patna

.....Defendants 2nd Set-Respondent 4th Set

12. Lalti Devi wife of Late Sudarshan Rai
13. Manoj Kumar son of Late Sudarshan Rai
14. Bhuri Kumari daughter of Late Sudarshan Rai
Both minors and under guardianship of their mother and natural guardian Sita Devi.



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rakesh Narayan Singh
For the Respondent/s : Mr. Ravi Kant Kumar

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

7 13-10-2023

Heard the parties.

2. The plaintiffs are the petitioners who have appeared before this Court for quashing the order dated 11.01.2017 passed by the Sub-Judge, II, Danapur in Title Partition Suit No. 21 of 2009 by which the amendment petition filed by the defendant 3rd set (Respondent 1st set in the present case) was allowed that the father (Ram Krit Gope @ Krit Gope @ Krit Narayan Rai) of the petitioner No. 1 Kundala Devi has died issueless.

3. Learned counsel for the contesting defendants- Respondents is not appearing though he has filed Valalatnama.

4. It is well settled that the admission of a party in a written statement cannot be allowed to be withdrawn by the party by filing an amendment petition after passage of long time on the pretext of typographical error.

5. The petitioners have taken this Court to other documents annexed with this application in which they show that the defendant 3rd Set in other collateral proceeding has



accepted that the petitioner No. 1 Kundala Devi as the daughter of Ram Krit Gope @ Krit Gope @ Krit Narayan Rai along with her other two sisters.

6. In view of the law laid down by the Supreme Court in the case of *Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and Another* reported in *AIR 2022 SCC 4256*, this application is allowed.

7. The order dated 11.01.2017 passed by the Sub-Judge, II, Danapur, Patna in Title Partition Suit No. 21 of 2009 is quashed. Accordingly, the amendment petition dated 23.04.2016 also stands dismissed.

8. The Sub-Judge, II, Danapur who is hearing the suit is directed to decide the suit within one year from the date of communication of this order without granting unnecessary adjournment to either parties and send a report this court. He will proceed *ex parte* against the non-cooperating party.

9. This application is, accordingly, allowed.

(Sandeep Kumar, J)

Saif/-

U			
---	--	--	--

