

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.183 of 2020

1. Sushila Devi Wife of Late Ramanand Shukla, resident of Village- Sareyan, Police Station- Ramgarh, District- Kaimur, Bhabua presently residing at Village- Machiaon, Police Station- Bhabua, District- Kaimur, Bhabua.
2. Ashutosh Kumar Shukla, Son of Late Ramanand Shukla, resident of Village- Sareyan, Police Station- Ramgarh, District- Kaimur, Bhabua presently residing at Village- Machiaon, Police Station- Bhabua, District- Kaimur, Bhabua.

... .. Petitioner/s

Versus

1. Most. Annpurna Kuer Wife of Late Ramakant Shukla, resident of Village- Sareyan, Police Station- Ramgarh, District- Kaimur, Bhabua presently residing at Village- Machiawn, Police Station- Bhabua, District- Kaimur, Bhabua.
2. Raju Shukla Minor son of Late Rama Kant Shukla under Guardianship of their mother Most. Annapurna Kuer, resident of Village- Sareyan, Police Station- Ramgarh, District- Kaimur, Bhabua presently residing at Village- Machiawn, Police Station- Bhabua, District- Kaimur, Bhabua.
3. Ranjeet Shukla, Minor Son of Late Rama Kant Shukla under Guardianship of their mother Most. Annapurna Kuer, resident of Village- Sareyan, Police Station- Ramgarh, District- Kaimur, Bhabua presently residing at Village- Machiawn, Police Station- Bhabua, District- Kaimur, Bhabua.
4. Rama Shankar Shukla Son of Late Devi Dayal Shukla, resident of Village- Sareyan, Police Station- Ramgarh, District- Kaimur, Bhabua.
5. Deepak Shukla, Son of Late Ramanand Shukla, resident of Village- Sareyan Police Station- Ramgarh, District- Kaimur, Bhabua, presently residing at Village- Machiawon, Police Station- Bhabua, District- Kaimur, Bhabua.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Radha Mohan Pandey, Advocate
For the Respondent/s : Mr. Om Prakash Upadhyay, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 31-10-2023

Heard the parties.

2. This application has been filed for quashing of the order dated 20.07.2019 passed by learned Sub Judge 1st, Kaimur at Bhabua in Title Suit No. 542 of 2009 by which learned Judge has allowed the amendment application filed by the plaintiffs.



3. It has been submitted by learned counsel for the petitioners that the amendment has been filed by the plaintiffs after delay when the case was fixed for evidence.

4. It has further been submitted that the amendments are barred by limitation as the plaintiffs have challenged the registered documents which are more than thirty five years old. It has further been submitted that the amendments are *mala fide* and it will change the nature of the suit.

5. Learned counsel for the plaintiffs/respondents in the court below support the impugned order and has submitted that nature of the suit is not being changed and in paragraph 5 of the amendment application, the plaintiffs have said that the amendments sought for are within time from the date of knowledge about the documents.

6. I have considered the submissions of the parties and also perused the materials available on record.

7. In the opinion of this Court, the amendments do not change the nature of the suit. So far as the question of limitation is concerned, it is open for the petitioner to the respondents to raise the question of limitation in their additional written statement.

8. In view of the law laid down by Hon'ble Supreme



Court in case of *Life Insurance Corporation of India Vs. Sanjeev Builder Private Limited* reported in *AIR 2022 SC 4256*, this application is dismissed.

9. The court below is directed to proceed with the suit and decide the same within one year without giving unnecessary adjournment to either of the parties of receipt/communication of a copy of this order. The court below will proceed ex parte against non cooperating party.

10. With the aforesaid observation and direction this application is disposed of.

(Sandeep Kumar, J)

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