

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.746 of 2023

1. Ram Surith Singh, Son of Late Jagdeo Singh, Resident of Village Ramabandh, P.O. Aurangabad, P.S. Aurangabad Town, District- Aurangabad (Bihar).
2. Ramdip Singh, Son of Late Mukhdeo Singh, Resident of Village Ramabandh, P.O. Aurangabad, P.S. Aurangabad Town, District- Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. Yamuna Prasad Singh, Son of Late Hit Narayan Singh, Resident of Village Ramabandh, P.O. Aurangabad, P.S. Aurangabad Town, District- Aurangabad (Bihar).
2. Sarju Prasad Singh, Son of Late Hit Narayan Singh, Resident of Village Ramabandh, P.O. Aurangabad, P.S. Aurangabad Town, District- Aurangabad (Bihar).
3. Ramadhar Singh, Son of Late Jagdeo Singh, Resident of Village Ramabandh, P.O. Aurangabad, P.S. Aurangabad Town, District- Aurangabad (Bihar).
4. Ramswaroop Singh, Son of late Mukhdeo Singh, Resident of Village Ramabandh, P.O. Aurangabad, P.S. Aurangabad Town, District- Aurangabad (Bihar).
5. Mahendra Chandrawanshi @ Mahendra Singh, Son of Late Ramdas Ram @ Ramdas Singh, Resident of Village Ramabandh, Ward No.- 4, P.O. and P.S. Aurangabad Town, District- Aurangabad (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Kishore Verma, Advocate Mr. Anjani Kumar, Advocate Mr. Abhay Nath, Advocate Mr. Ravi Raj, Advocate Mr. Shuyash Goyal, Advocate
For the Respondent/s	:	Mr. Ranjan Kumar Dubey, Advocate Mr. Kumar Gaurav, Advocate Mr. Shashank Kashyap, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 15-02-2024

Heard learned counsel for the petitioners and learned
counsel for the respondents 1st set who have also been heard on
previous dates and I intend to dispose of the present petition at



the stage of admission itself.

2. The instant petition has been filed for setting aside the order dated 26.06.2023 passed by the learned Additional District Judge-X, Aurangabad in Partition Appeal No. 07 of 2019/ 56 of 2022 recording its finding after conclusion of inquiry started in respect of interpolation made in the plaint on the point of valuation towards compliance of order of the Co-ordinate Bench dated 07.04.2022 passed in Civil Misc. No. 342 of 2021. The petitioners are aggrieved by the findings recorded by the learned first appellate court. The petitioners were defendant nos. 1 and 3 before the learned trial court and respondents before the learned first appellate court whereas the respondent 1st set herein was plaintiff/appellant.

3. Learned counsel for the petitioners submits that the plaintiff/appellant/respondent 1st set filed a partition suit bearing Partition Suit No. 26 of 2016 on 26.05.2026 in the court of learned Sub Judge-1, Aurangabad, claiming 1/6th share in the suit property. On 27.09.2019, Partition Suit No. 226 of 2016 has been dismissed on contest and decree has been prepared. Learned counsel further submits that in paragraph no. 20 of the plaint, suit value has been typed as Rs. 25,00,000/- (Twenty Five Lakh) and after cutting the digit '2', figure was changed to Rs. 5,00,000/- although stamp report of Seristedar was made on the



valuation of Rs. 25,00,000/-. Even the suit institution register mentions the suit value as Rs. 25,00,000/- in figures as well as in letters. However, when the decree was prepared after dismissal of the suit, suit value was mentioned as Rs. 5,00,000/- in the decree. On 27.01.2021, the defendants/petitioners filed a petition under Section 152 of the Code of Civil Procedure (hereinafter the Code) in the court of Sub Judge 1st, Aurangabad in Partition Suit No. 226 of 2016 submitting, *inter alia*, that in the report of Seristedar as well as in the plaint, suit valuation has been mentioned as Rs. 25,00,000/- but due to some typing mistake in the decree, Rs. 5,00,000/- has been typed in place of Rs. 25,00,000/- and thus a prayer was made that the decree be amended accordingly. The said application is still pending.

4. Meanwhile, against the dismissal of the suit, plaintiffs/respondents 1st set filed a partition appeal bearing Partition Appeal No. 7 of 2019 on 30.11.2019 with valuation of suit as well as appeal as Rs. 5,00,000/- in the memorandum of appeal. On 03.01.2021, the defendants/petitioners filed a petition in Partition Appeal No. 7 of 2019 challenging the maintainability of the title appeal on the ground of pecuniary jurisdiction submitting it to be barred under Section 6 of the Code. On 06.02.2021, plaintiffs/respondents 1st set filed counter/rejoinder stating that suit value as mentioned in paragraph no. 20 of the



plaint as Rs. 25,00,000/- was due to a mistake committed by the typist and the said mistake was rectified prior to filing of the suit by deleting digit '2' and making the suit value as Rs. 5,00,000/-. It has further been submitted that in the report of the Seristedar the value was written as Rs, 5,00,000/- but after judgment some interpolation has been made in the same.

5. Learned counsel further submits that, however, bare perusal of the plaint shows wherever there is cutting in the plaint, initial has been put at that place but the alleged cutting in valuation does not bear any initial. So the value of the suit will be treated to be un-interpolated figure of Rs. 25,00,000/-. Thereafter, upon consideration of the petition, the rejoinder and materials brought on record, the learned court below, in order to find out the correctness of allegation of interpolation passed order dated 08.03.2021 directing that an inquiry be conducted in this matter so as to find out the truth of interpolation and the point of valuation for the purpose of coming to the conclusion as to whether the appeal is within pecuniary jurisdiction of the court. However, the same court vide its order dated 14.07.2021 took a different view of the matter relying upon a purported change in law relating to forum on account of enhancement of valuation of appellate court to entertain appeal but the said law was not enacted rather it was still at the stage of Bill and the



learned court below passed the order under misconception that the Bill has become law. Moreover, even such enactment could not have any retrospective effect. Learned court below also failed to take note of the fact that inquiry has already been ordered and the question of jurisdiction has already been raised.

6. Being aggrieved and dissatisfied with the order dated 14.07.2021, the petitioners preferred a petition to this Court under Article 227 of the Constitution of India bearing Civil Misc. No. 342 of 2021 praying for an order for setting aside the order of the learned court below dated 14.07.2021. Civil Misc. No. 342 of 2021 was disposed of by a Co-ordinate Bench of this Court vide order dated 07.04.2022 directing the learned appellate court to conclude the inquiry initiated on 08.03.2021 and thereafter pass appropriate order regarding the valuation of the appeal.

7. Learned counsel further submits that the learned court below mechanically and by committing jurisdictional error concluded the inquiry in a hurry. It did not even examine the Seristedar. It did not consider the paragraph no. 20 of the plaint where the figure '2' is quite conspicuous and it is also visible to the naked eyes that it has been cut by making an interpolation. No initial was put over such cutting. The learned first appellate court recorded the evidence of only the office clerk who prepared the decree and not of the Seristedar of the trial court. Even the



suit institution register was not considered. The valuation as per MVR called from the registry office was not relied upon and discarded on flimsy ground. Though the learned first appellate court came to a finding that interpolation has been made, it failed to rely upon un-interpolated figure of Rs. 25,00,000/- and recorded a wrong finding that the suit was valued at Rs. 5,00,000/-. The learned first appellate court also recorded a finding that interpolation has been made in figures of the valuation of the suit in the plaint as well as in the Seristedar report after passing of the decree in the suit but further recorded that the evidence and material on record were not sufficient to determine who has committed this interpolation.

8. The learned counsel further submits that in view of specific case of interpolation after passing of the judgment in the valuation of the plaint which is not handwritten rather it is typed, if such correction is made, the un-interpolative value would be Rs. 25,00,000/- and not Rs. 5,00,000/-. Learned counsel further submits that the order impugned concluded the inquiry in a mechanical manner so as to arrive at the conclusion that value of the suit was Rs. 5,00,000/- and the said finding is unsustainable and arbitrary. For this reason the appeal is not maintainable before the learned first appellate court as its appellate jurisdiction was only Rs. 10,00,000/-. Upon valuation of suit at Rs.



25,00,000/-, the appeal would lie to the High Court and in order to change the jurisdiction, the interpolation has been made in the records.

9. On the other hand, learned counsel appearing on behalf of the respondents 1st set vehemently contents that there is no such interpolation in the record as alleged by the learned counsel for the petitioners. At the outset, learned counsel admits that in the rejoinder dated 03.02.2021, it has been written in paragraph no. 4 that valuation of suit was wrongly typed as Rs. 25,00,000/- but it was changed to Rs. 5,00,000/- after deleting digit '2' but the same appears to be slip of pen. Learned counsel took this Court to the paragraph no. 20 of the plaint as well as copy of the suit institution register to show that the suit was valued at Rs. 5,00,000/- and there was no mentioning of Rs. 25,00,000/- in the suit institution register. Learned counsel further submits that it appears that the suit was initially valued at Rs. 2,50,000/- which was subsequently changed to Rs. 5,00,000/- and the learned first appellate court conducted a proper inquiry and after recording its finding came to the conclusion that if any interpolation was made, it was made subsequent to the passing of the decree. Learned counsel further submits that the learned first appellate court has also perused the Seristedar report and recorded a finding that digit '2' (two) was added on a '-' (hyphen)



before the figure of 5,00,000/-. Learned counsel further submits that when the decree was prepared, the value of the suit was mentioned as Rs. 5,00,000/- and the same was not challenged for two years by the defendants/petitioners. Learned counsel further submits that it appears from paragraph no. 20 of the plaint that there has been writing and overwriting over the digits with regard to suit valuation. Learned counsel further submits that in fact all the interpolations have been made in the record after passing of the decree so as to take out the matter from the purview of the present first appellate court to deny the defendants/respondents 1st set benefit of two forums to pursue the appeal.

10. Whatever be the rival claims of the parties, a very unfortunate situation is presented before this Court. Judicial records are supposed to be sacrosanct and meddling with records is never permissible. From bare perusal of the copy of plaint as well as suit institution register and other photocopies which have been produced before me, I am aghast to see the brazen manner in which records had been tempered. From perusal of the impugned order, it is evident that certain interpolations have been made in the record. But a finding has been arrived at by the learned first appellate court that the suit was valued at Rs. 5,00,000/- and the same is also reflected from the decree prepared by the learned trial court and there is no allegation that



the decree was tempered with. Further, I also find from the different documents produced before this Court that there appears different versions of suit institution register and the certified copy of the suit institution register does not show any figure either of Rs. 5,00,000/- or of Rs. 25,00,000/-. Seristedar report is not before this Court but the same has been discussed by the learned first appellate court which recorded its finding that digit '2' appears to be added after the word 'Rs.' and before the figure '5,00,000/-'. At the same time, the learned first appellate court has mentioned that Seristedar has also considered the valuation of the suit at Rs. 5,00,000/- for the purpose of jurisdiction. Thus, the learned first appellate court arrived at the finding that the suit was valued at Rs. 5,00,000/- (Five Lakh Only) and accordingly decree was prepared. However, the learned first appellate court after concluding the inquiry has recorded a finding that some interpolation has been made but it is not possible to find out who has committed this interpolation.

11. From the discussion made so far, I am inclined to accept the valuation of suit arrived at by the learned first appellate court to the tune of Rs. 5,00,000/- (Five Lakh only) and accept the report of the inquiry to the said extent. Moreover, the fact about valuation is a matter between the court and the concerned party and the sequence and recital of documents also



support the finding of the learned first appellate court on the point of valuation. It would also be in the interest of the parties that they should proceed from this stage and spend their energy while prosecuting the appeal before the learned first appellate court instead of frittering away the same on non-productive issues. To that extent, the matter needs to be given a quietus. However, so far as interpolation of judicial records is concerned, the approach of the learned first appellate court in throwing the towel before taking inquiry to its logical end appears to be a hasty decision. It was incumbent upon the learned first appellate court to further inquire into the matter in terms of mandate prescribed by the Co-ordinate Bench vide its order dated 07.04.2022 passed in Civil Misc. No. 342 of 2021 about the nature of interpolation and the persons involved if it arrived at a finding about the interpolation in the judicial record at first instance. Therefore, the learned District Judge, Aurangabad is directed to take up the matter from the stage where the learned first appellate court has left its inquiry and fix the responsibility against the person(s) who might be found involved with tempering of judicial records and submit a report to this Court within a period of six months from the date of receipt/production of a copy of this order.

12. Accordingly, the present petition is disposed of



with direction to the learned first appellate court to take further steps for disposal of the pending appeal within a period of six months from the date of receipt/production of a copy of this order. However, it is made clear that the continuation of inquiry would not have any bearing on the disposal of the appeal before the learned first appellate court.

(Arun Kumar Jha, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	20.02.2024
Transmission Date	NA

