

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.213 of 2024

1. Raihana Khatoon Wife of Late Md. Wasim, resident of Bari Haweli, Saguna Mainpura, P.O.-Danapur, P.S.-Danapur, District-Patna-801503.
2. Nahid Salima, D/o Late Md. Wasim, resident of Bari Haweli, Saguna Mainpura, P.O.-Danapur, P.S.-Danapur, District-Patna-801503.
3. Viqar Azim, Son of Late Md. Wasim, resident of Bari Haweli, Saguna Mainpura, P.O.-Danapur, P.S.-Danapur, District-Patna-801503.

... .. Petitioner/s

Versus

1. Surendra Prasad Choudhary son of Late Payare Lal Choudhary, resident of Rajghat Nawada, P.S. Punpun, District Patna.
2. Krishna Kumar Choudhary, son of Late Payare Lal Choudhary, resident of Rajghat Nawada, P.S. Punpun, District Patna.
3. Hira Lal Choudhary, son of Late Payare Lal Choudhary, resident of Rajghat Nawada, P.S. Punpun, District Patna.
4. Mahesh Kumar Choudhary, son of Late Payare Lal Choudhary, resident of Rajghat Nawada, P.S. Punpun, District Patna.
6. Kishori Choudhary, son of Late Dulare Choudhary, resident of Rajghat Nawada, P.S. Punpun, District Patna.
7. Sukhari Choudhary, son of Late Dulare Choudhary, resident of Rajghat Nawada, P.S. Punpun, District Patna.
8. Basant Choudhary, son of Late Dulare Choudhary, resident of Rajghat Nawada, P.S. Punpun, District Patna.
9. Ganga Bishnu Choudhary, son of Late Dulare Choudhary, resident of Rajghat Nawada, P.S. Punpun, District Patna.
11. Jitendra Choudhary, son of Late Karmu Choudhary, resident of Rajghat Nawada, P.S. Punpun, District Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anisur Rahman, Advocate
For the Respondent/s	:	Mr. Abhay Kumar, Advocate
		Mr. Kundan Prasad Singh, Advocate
		Mr. Abhishek Mani, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 22-04-2025

Heard learned counsel for the petitioners as well as
learned counsel for the respondents.



2. The petitioners are aggrieved by the order dated 27.01.2024 passed by learned Additional District and Sessions Judge-1st, Danapur in Title Appeal No. 21 of 1999 whereby and whereunder the petition dated 11.12.2023 and 17.01.2024 filed by the petitioner (wrongly mentioned as respondent by the petitioners in paragraph no.1 of the petition) for making an inquiry regarding interpolation in order-sheet dated 21.07.2014 was rejected.

3. Learned counsel for the petitioners submits that bare perusal of order-sheet dated 21.07.2014 passed in Title Appeal No. 21 of 1999 shows that above the date '13.09.13' in 2nd line, date '03.09.13' has been added and thereafter in 4th line above the word 'Pyarelal Choudhary', word 'Dulare Choudhary' has been added. Similarly, again in 6th line above the date '28.07.13', date '03.09.13' has been added. Again the word 'Dulare Choudhary' was added in the last line of the running order-sheet after the word 'Prayelal Choudhary'. Further, on the next page of the order-sheet, prior to word 'Pyarelal Choudhary', word 'Dulare Choudhary' has been added in the 4th line. Learned counsel further submits that Prayelal Choudhary died on 28.07.2013 and Dulare Choudhary died on 03.09.2013. Learned counsel further submits that there has been no



application dated 03.09.2013 filed for substitution of either Dulare Choudhary or Prayelal Choudhary and only application was filed for substitution of Pyarelal Choudhary on 13.09.2013. So it is apparent that the order dated 21.07.2014 has been interpolated and the name of Dulare Choudhary has been added at different places. Learned counsel further submits that no petition was filed on 03.09.2013 and the case was not fixed on that date and no order-sheet mentions about the petition dated 03.09.2013. Perusal of order-sheet dated 21.07.2014 shows interpolation was done in five places in the order-sheet. Learned counsel further submits that when the rejoinder was filed, the contention of the petitioners was not replied by the respondents as they did not file any rejoinder to controvert the statement of the petitioners. If the interpolation in the order-sheet dated 21.07.2014 remain unexplained, it would amount to committing fraud in the judicial proceeding on record. But the learned 1st appellate court did not take into consideration this fact and rejected the application filed by the petitioners merely on the ground that the entries were made in same ink and pen and the petitioners approached the court pointing out this fact after nine years. Learned counsel refers to a decision of the Hon'ble Supreme Court in the case ***Ram Chandra Singh vs. Savitri Devi***



And Ors., reported in **(2003) 8 SCC 319** wherein the Hon'ble Supreme Court held that commission of fraud on court and suppression of material facts are the core issues involved and further held that fraud as is well-known vitiates every solemn act. Fraud and justice never dwells together. The Hon'ble Supreme Court observed that an act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction *void ab initio*. Fraud and deception are synonymous. Learned counsel thus submits that the respondents, in order to derive some benefits, came in collusion with court officials and got interpolation done in the order-sheet and the learned 1st appellate court ought to have taken this fact into consideration and ordered for an inquiry and, hence, the impugned order is not sustainable.

4. Learned counsel appearing on behalf of the respondents vehemently contends that there is no interpolation made in the order-sheet dated 21.07.2014 and the petitioners have filed the present petition only to delay the disposal of Title Appeal No. 21 of 1999. Learned counsel further submits that Pyarelal Choudhary died on 28.07.2013 and the application for his substitution was filed on 13.09.2013. Dulare Choudhary died



on 03.09.2013 and application for his substitution was filed on 19.12.2013. An application under Section 5 read with Article 121 of the Limitation Act was filed on 08.07.2014 in continuation with their petition dated 19.12.2013. Learned counsel thus submits that prior to passing of the order dated 21.07.2014, the petitions of the respondents were already on record and there was no occasion for the respondents to derive any benefit from interpolation being made in the order dated 21.07.2014. Learned counsel further submits that the certified copies of the petitions have been brought on record to verify this fact and for reference. There was even no occasion for abatement of the appeal as there were altogether 11 appellants and 9 of them still remained on record and right to sue survived. Learned counsel further submits that if some words have been added by the court and the words are in the same handwriting, that does not mean interpolation has been made. If any wrong date has been mentioned, it is for the court to explain the same. Learned counsel further submits that moreover the learned 1st appellate court has taken into consideration the conduct of the appellants in filing this application after passage of nine years. The petitioners appeared in the title appeal in the year 2010 and thereafter discontinued their appearance and again they



appeared in the year 2015 but did not bring this fact to the notice of the court earlier. Once, a Co-ordinate Bench of this Court, vide order dated 19.09.2023 passed in Civil. Misc. No. 448 of 2018, directed for fresh consideration of petitions dated 08.01.2018 and 24.01.2018 filed on behalf of the respondents, the petitioners raised this issue so as to hamper the disposal of Title Appeal No. 21 of 1999.

5. I have given my thoughtful consideration to the rival submissions of the parties and perused the record. Perusal of the order-sheet dated 21.07.2014 certainly shows addition of some words and dates. It is also apparent that there has been no application dated 03.09.2013 filed for substitution of any of the appellants. Still, at one place date 03.09.13 has been added as if some application was filed on 03.09.2013. On the other hand, the application dated 19.12.2013 filed for substitution of appellant Dulare Choudhary does not find mention anywhere in the order dated 21.07.2014. It is also apparent that by making such interpolation, no obvious benefit is going to accrue to the appellants. If their petition for substitution was already on record, the learned 1st appellate court did not explain the addition of words and only offered the reasons that as the order-sheet was drawn by his predecessor and the words added were



in same handwriting and ink, there appeared no interpolation. The reasoning might be correct still the order-sheet being records of judicial proceedings are considered sacrosanct and it was incumbent upon the learned 1st appellate court to explain the situation in which the order-sheet was so drawn. When there has been no application dated 03.09.2013, mentioning it even at single place would require explanation from the court concerned. To this limited point, I think the learned 1st appellate court erred and it ought to have given its explanation on this point. However, considering the passage of time that the order-sheet has been drawn on 21.07.2014 and the issue was raked up only on 11.12.2023 and 17.01.2024 by the petitioners, I do not think any useful purpose would be served in flogging the dead horse. Even otherwise, I do not find any infirmity in the impugned order.

6. Hence, the impugned order dated 27.01.2024 passed by learned Additional District & Sessions Judge-1st, Danapur in Title Appeal No. 21 of 1999 is affirmed with a rider that the learned 1st appellate court will correct the order-sheet taking into consideration the proper dates of application filed on behalf of the respondents for substitution which do not find mention in the order-sheet dated 21.07.2014 and also explain the



circumstances in which the order-sheet dated 21.07.2014 has been drawn. This exercise would be completed by the learned 1st appellate court within a period of one month from the date of receipt/production of a copy of this order.

7. In terms of aforesaid direction, the present petition stands disposed of.

(Arun Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.04.2025
Transmission Date	NA

