

IN THE HIGH COURT OF JUDICATURE AT PATNA
SECOND APPEAL No.219 of 2020

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1. Smt. Pushpa Devi Wife of Deepak Kumar Resident of Mohalla- Miscot Motihari, P.o. and P.s.- Motihari Town, District- East Champaran
 2. Amar Nath @ Rohit Kumar S/o Deepak Kumar Resident of Mohalla- Miscot Motihari, P.o. and P.s.- Motihari Town, District- East Champaran
 3. Garib Nath Kumar @ Aakash Kumar S/o Deepak Kumar Resident of Mohalla- Miscot Motihari, P.o. and P.s.- Motihari Town, District- East Champaran
 4. Komal Kumari W/o Ravi Gupta D/o Deepak Kumar, Resident of Mohalla- Miscot Motihari, P.o. and P.s.- Motihari Town, District- East Champaran

... .. Appellant/s

Versus

1. Deepak Kumar S/o Late Deenanath Prasad Resident of Mohalla- Miscot Motihari, P.o. and P.s.- Motihari Town, District- East Champaran
2. Dr. Priyadarshi Swastik Sinha W/o Dr. Sushil Kumar D/o Late Laxmi Narain Singh, Resident of Mohalla- Gopalpur, P.o. and P.s.- Motihari Town, District- East Champaran
3. Rajiv Prakash Son of Vijay Kumar Singh Resident of Mohalla- Belbanwa Tola Agarwa, P.o. and P.s.- Motihari Town, District- East Champaran
4. Sanjiv Prakash Son of Vijay Kumar Singh Resident of Mohalla- Belbanwa Tola Agarwa, P.o. and P.s.- Motihari Town, District- East Champaran
5. Most. Anju Devi W/o Late Mukesh Kumar Singh Resident of Mohalla- Sagar Churaman, P.s.- Kesariya, P.o.- Bhagwatia, District- East Champaran
6. Kunal Kumar S/o Late Mukesh Kumar Singh Resident of Mohalla- Sagar Churaman, P.s.- Kesariya, P.o.- Bhagwatia, District- East Champaran
7. Basant Singh S/o Late Nageshwar Singh Resident of Mohalla- Sagar Churaman, P.s.- Kesariya, P.o.- Bhagwatia, District- East Champaran
8. Shir Umesh Singh S/o Late Nageshwar Singh Resident of Mohalla- Sagar Churaman, P.s.- Kesariya, P.o.- Bhagwatia, District- East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ambuj Nayan Chaubey, Advocate
For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 03-04-2026 Heard the parties.

2. The present petition has been preferred for the



following relief/s:

(i) the case of the plaintiffs appellant in brief as stated in the plaint is that a genealogical table has been given at the foot of the plaint. From perusal of the G.T. it would be evident that late Dinanath Prasad Gupta had two marriages. Two sons Sheonath Prasad Gupta and Vinod Prasad Gupta and two daughters, namely Manorama Devi and Manju Devi are from first wife and after death of first wife Dinanath Prasad solemnized second marriage with plaintiff No.1 from the wedlock he begotten one son defendant no.1. The Plaintiff No.2 is wife of defendant no 1. Plaintiff no.3 and 4 are two sons and Komal Kumari is one daughter. Further case of the plaintiff is that a partition through Ekararnama dated 15.05.1992 taken place in between sons of First wife of Dinanath Prasad Gupta and Plaintiffs and defendant no.1 and some of the joint property was left which was



partitioned through Khangi partition and all the sharers according to partition are coming on in possession of their respective shares. The details of the suit land is given in the Schedule 2 of the plaint in which there is no any share of sons of Dinanath Prasad from first wife, therefore, they have not being made party in this suit. It has further been stated that some of the plaintiffs are pardanasin ladies and some are minor whose shares in the suit land is 718 and the suit land is in the joint possession of the parties, out of which plaintiff No. 1 has gifted land of Khesra No. 503 of area 13 Dhur to her grant sons plaintiff No. 3 and 4 through gilt deed dated 24.04. 1990 over which they are in possession through their mother plaintiff no.2. but due to the fault of scribe the southern and western boundary has been wrongly mentioned for which plaintiff no 1 has executed deed of rectification on 29.09. 1007. It is further



been stated that defendant no. 1 is an addict he always used to live with bad people and he did not take care of his wife and children therefore, only from the rent the maintenance of plaintiff is being done. It has further been stated that defendant no. 1 in the state of intoxication has executed four sale deeds on 05.07.1906 in favour of defendant second party for the consideration amount of Rs. 40,000 40,000-40,000% and 36,000- respectively total amount of Rs 1,50,000% whereas there was no any necessity of saling the land to the defendant no 1. It has further been stated that according to the condition of Ekramama dated 15.05.1902 the defendant no.1 can not sale the property without consent of plaintiff no. 1 and 2 and heirs of first wife of Dinanath Prasad Gupta. Therefore, the above said sale deeds are illegal and unlawful. It has further been stated that on asking from defendant no.1 about execution of sale deed in favour of



defendant second party and for partition of the suit land h became ready to commit marpit, therefore this suit has been filed by the plaintiff for partition of suit land after cancellation of sale deeds executed by defendant no. 1 in favour of defendant second party.

3. Learned counsel for the petitioner prays for withdrawal of the petition.

4. Accordingly, the second appeal no. 219 of 2020 is dismissed as withdrawn.

(Rajiv Roy, J)

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