

District: Bhojpur

In The court of Sub Judge - I, Piro

Title Suit no. - 178/2019

Akhatar Khan Plaintiff

Versus

Kedar Nath Prasad and OtherDefendant

Order

05-10-2023: There is attendance of plaintiff through his LD. Counsel and and defendant no. 2. This case is pending for hearing on petition dt. 23-10-2021 and its rejoinder dt. 17-12-2021.

Case called out. Ld. Counsel for the defendant appeared and moved his petition dt. 23-10-2021 filed u/o 7 Rule 11a & 11d of the C.P.C. and submit that the suit is not maintainable. The plaintiff has filled the suit for specific performance of contract and for restoration of the possession if plaintiff is dispossessed during the pendency of the suit and to declare sale deed no. 128802/2010 illegal and void. The suit has been filled only to harass the defendant. The plaintiff has stated in para no 16 that wife of defendant 1st set has executed the sale deed in favour of defendant 2nd set but such sale deed is not in existence. Defendant 1st set has executed sale deed no. 11924 dt. 08-12-2010 in favour of defendant 2nd set in respect of the land under khata no. 1416 plot no 1986 area 3 kattha. The agreement for sale deed is forged and fabricated document. On this agreement for sale deed the executant has given date 09-07-2017 where as the deed writer has given date 08-07-2017. There is no full address of witness Ravishankar Singh. The disputed land belongs to Ara-Sasaram Railway who have executed so many sale deed through Power-of-Atorney. This suit is filled for illegal purpose therefore barred by section 23 of the contractor. So this case is not maintainable and fit to be rejected.

Ld Counsel for the plaintiff submit that the petition is not maintainable because this is pre-matured malafied, and filled only to delay the proceeding.

Heard and perused the record. After perusal of the same this court finds that here is mixed question of fact and law as pleaded by the defendant. After perusal of the plaint this court finds that this does not come under perview of u/o 7 Rule 11a & 11d of the C.P.C.

Therefore petition dt. 23-10-2021 filed u/o 7 Rule 11a & 11d of the C.P.C. is order to be rejected.

Put up on ...30/10/2023..... for other defendant.

(Aditi Gupta)
Sub Judge I
Civil Court Piro