

Jharkhand High Court

Samir Sen vs Rita Ghosh on 17 September, 2018

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W. P. (C) No. 1490 of 2015

1. Samir Sen s/o Late Rashbihari Sen

2. Mrs. Krishna Sen @ K. Sen w/o Samir Sen

3. Sulata Sen d/o Samir Sen

4. Sujata Sen d/o Samir Sen All residents of holding no. 1382/A, 7th Lane, Netaji Nagar, Kantatoli, PO Kantatoli, PS Lower Bazar Town, Distt.-RanchiPetitioners Versus

1. Rita Ghosh w/o Gopal Chandra Ghosh

2. Subrata Ghosh s/o Gopal Chandra Ghosh

3. Siddhartha Ghosh s/o Gopal Chandra Ghosh

4. Mallika ghosh w/o Late Shrikanta Ghosh

5. Pranati Kumar Ghosh s/o Anil Ku. Ghosh All residents of D-8, Netaji Nagar, Kantatoli, PO Kantatoli, PS Lower Bazar, Distt.-Ranchi..... Respondents

CORAM : HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

For the Petitioners : Mr. P.K. Nayak, Adv.

For the Respondents : None

04/17.09.2018

The petitioners are aggrieved of order dated 21.01.2015

passed in Title Suit No.353 of 2009 by which their application under Order XI Rule 12 CPC has been rejected.

2. Scheme under the Code of Civil Procedure for trial of the suits indicates that before issues are settled in the suit the parties are required to produce the original documents [refer Order XIII Rule 1 CPC]. In fact, at the time of presentation of the plaint or filing of the written statement of defence,

parties are required to produce the documents on which their claim is founded.

This precisely is the reason under Order 11 CPC provisions for interrogatories and discovery of documents have been laid down.

3. Not only after the plaintiff's evidence was closed and the defendants failed to produce evidence for about 5 months, at this stage this application under Order XI Rule 12 CPC was filed. Apparently, this application was not maintainable.

4. In the above facts, I am not inclined to interfere in the matter and accordingly, the writ petition is dismissed.

(Shree Chandrashekhar, J.) R.K.