

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7336 of 2013

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1. Bipin Kumar Bhatt S/O Late Ramanand Kuer R/O Village- Gaudar,
P.O.+P.S.-Shahpur, District- Bhojpur (Applicant For Intervention)

.... Petitioner.

Versus

1. Mahanth Ramjee Giri Owner And Mahanth, Chela And Nati Of Late
Mahanth Tyaga Nand Giri R/O Village- Chhotaki Mathia, Shahpur,
P.O.+P.S.- Shahpur, District- Bhojpur.

2. Nathjee @ Nakkhai Nathjee Idol Through Mahanth Ramjee Giri, Chela
Tyaga Nand Giri R/O Village- Chhotaki Mathia, Shahpur, P.O.+P.S.-
Shahpur, District- Bhojpur

3. Thakurjee @ Gopaljee Idol Through Mahanth Ramjee Giri, Chela Tyaga
Nand Giri R/O Village- Chhotaki Mathia, Shahpur, P.O.+P.S.- Shahpur,
District- Bhojpur

4. Lord Shiva Idol Through Mahanth Ramjee Giri, Chela Tyaga Nand Giri
R/O Village- Chhotaki Mathia, Shahpur, P.O.+P.S.- Shahpur, District-
Bhojpur

5. Kalijee @ Durgajee Idol Through Mahanth Ramjee Giri, Chela Tyaga
Nand Giri R/O Village- Chhotaki Mathia, Shahpur, P.O.+P.S.- Shahpur,
District- Bhojpur

6. Mahanth Mahadeo Giri Chela Mahanth Late Bhoot Giri R/O Village-
Chhotaki Mathia Shahpur, P.O.+P.S.- Shahpur, District- Bhojpur

.... Respondents.

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

8 04-05-2015 Heard Mr. Pandit Jee Pandey, the learned counsel

for the petitioner. The learned counsel for the respondent nos.1

to 5 and respondent no.6 respectively have also been heard.

Taking exceptions to the impugned order

rejecting the prayer for impleadment as party in the two suits

i.e. T.S.No.89/03 and T.S.No.29/1989, the petitioner has filed

this application under Article 227 of the Constitution of India.



The learned counsel for the parties are at agreement that both the T.S.No.85/03 and T.S.No.29/1989 have been filed for declaration of the status of the plaintiffs as Mahanth of the concerned Math and allied reliefs. The property of the Mathia has been described in the schedules of the complaints of both the suits. The learned counsel for the parties are further at agreement that in both the suits the three plots i.e. Plot Nos.7231, 7233 and 7234, area 11 decimals, 71 decimals and 3.46 acres (328 decimals) respectively have been mentioned and also made subject matter of the suits. The writ petitioner claiming his exclusive title and possession over these three plots filed petition for his addition as intervener defendants in the suits. At this juncture, it would be pertinent to mention here that both the suits are being heard analogously. By the impugned order, the learned court below has rejected the petition of the writ petitioner and refused to add him as intervener defendant in both suits. Manifestly, the ground mentioned for rejection of the claim of the writ petitioner is that the petitioner has not produced/filed the documents in support of his claim of title and possession.

Mr Pandey, the learned counsel for the petitioner has submitted that the petitioner had produced the relevant



documents in support of his right, title and interest over the three plots and has placed emphasis on the list of documents which has been brought on record as Annexure-10 series to this writ application to support his contention. It has been canvassed by the learned counsel for the petitioner that though the documents were there already on record but the learned court below has ignored the same and passed the impugned order. It has been propounded that the order suffers from the vice of error of record and the court below has acted with material irregularity in rejecting the petition filed by the petitioner.

The learned counsel for the respondent nos. 1 to 5 who are the plaintiffs in T.S.No. 29/89 has submitted that the plaintiffs would not pursue their suit with regard to the three plots i.e. Plot Nos. 7231, 7233 and 7234 which have been claimed by the petitioner in his intervention application. It has also been submitted that appropriate direction may be issued to the court below for early disposal of the two suits as the same are pending since long.

Similar stand has been taken by the learned counsel for the respondent no.6 who has categorically submitted before this Court that the respondent no.6- who is



the plaintiff in T.S.No. 85/03 will not pursue the suit with regard to the three plots i.e. Plot Nos. 7231,7233 and 7234, which have been claimed by the petitioner in his intervention application . The submission has also been made for a direction to the court below to dispose of the two suits expeditiously, particularly in view of the fact that the receiver has been appointed and there is also apprehension of misappropriation and wastage of the property.

Mr Pandey, the learned counsel for the writ petitioner, in response, has submitted that the writ petitioner would not pursue the present writ application for the prayer for direction for adding him as intervener defendant in the suits in view of the stand of the plaintiff-respondents that they would not pursue their suit with regard to the three plots claimed by the writ petitioner.

After careful consideration of the matter and considering the submissions and stand taken by the learned counsel for the respondents as above, this writ application is disposed of with direction to the respondents (plaintiffs in both the suits) in T.S.No. 29/89 and T.S.No. 85/03 to file appropriate petition in their respective suits, praying for deletion/exclusion of the three plots i.e. Plot Nos. 7231, 7233



and 7234 from the schedule of the suit properties in plaint and if such petition is filed, the learned court below is directed to allow the prayer for deletion/exclusion of three plots in question as mentioned above and proceed with the disposal of the suits which is pending since long and shall make every endeavour to dispose of the suit expeditiously preferably within six months. The learned counsel for the plaintiff-respondents in both the suits have stated that the petition for deletion/exclusion of the three plot in question shall be filed within a period of four weeks. In view of the aforesaid stand on behalf of the plaintiff-respondent and the direction as abovementioned, there is no need to pass any further order on the prayer of the writ petitioner.

At this juncture, the learned counsel for the plaintiff - respondents have submitted that the exclusion of the three plots from the suit would not stand as a bar to the plaintiffs in pursuing their remedies against the three plots separately, if permissible, in accordance with law. It is observed that the rights of the plaintiff-respondents to pursue the remedies with regard to the three plots against the writ petitioner or any other appropriate person shall not be prejudiced by the exclusion of the three plots as aforementioned from the two suits and the plaintiff-

respondents shall be at liberty to pursue their remedy, if available to them in accordance with law.

The writ application is accordingly disposed of with aforesaid observations and directions.

(V. Nath, J)

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