

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.318 of 2014**

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Jawahar Prasad Gupta & Anr

.... .... Petitioner/s

Versus

Jaleshwar Pathak

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Bajrang Lal

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR**  
**SAHOO**  
**ORAL ORDER**

2 04-12-2015

Heard the learned counsel, Mr. Bajrang Lal for the petitioners.

By the impugned order dated 19.11.2013 passed by Sub Judge III, Gopalganj in Title Suit No.50 of 2005, the court below has allowed the application filed by the plaintiff-respondent under Order I Rule 10(2) C.P.C. for adding the Secretary of Bihar Bhudan Yagya Committee.

The grievance of the learned counsel for the petitioners is that the court below without considering the fact that according to the plaintiff himself, the properties of Plot No.854 was acquired by Bhudan Yagya Committee and had already distributed the same in favour of Lalita Devi, therefore, Bhudan Yagya Committee is not a necessary party.

Perused the order passed by the court below. Admittedly, the application under Order I Rule 10(2) C.P.C. has

been filed by the plaintiff-respondent. In the impugned order, the court below recorded that for effective decision of the controversy between the parties, the Secretary of Bihar Bhudan Yagya Committee is required to be added as party.

It may be mentioned here that since the application was filed by the plaintiff who is dominus litis, the defendant cannot be allowed to object the addition of party and cannot dictate as to which party should be added by the plaintiff as defendant and moreover, it is the discretion of the Court to add party in view of the provision as contained in Order I Rule 10 C.P.C.

Since the court below has found that Secretary, Bihar Bhudan Yagya Committee is necessary party and in this writ application, the Secretary, Bihar Bhudan Yagya Committee has not been added as party-respondent, in my opinion, the impugned order cannot be interfered with in exercise of supervisory jurisdiction.

Accordingly, this writ application is dismissed.

**(Mungeshwar Sahoo, J)**

Saurabh/-

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