

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15724 of 2010

Mukesh Nath Sahay S/O Late Digambar Nath Sahay R/O Mohalla- Purani Bazar, Muzaffarpur, at present residing in Huse Chhapra, Nai Basti, Jhathi Okhara, P.O.- Sarha, Chhapra, P.S.- Sadar, Distt.- Saran

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Law, Government of Bihar, Old Secretariat, Patna
2. Civil Court, Muzaffarpur through its Registrar
3. Collector, Muzaffarpur
4. Krishna Kishore Singh S/O Late Yamuna Prasad R/O Vill.- Bangra Firoz, P.S. Baruraj, Distt.- Muzaffarpur

.... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. MADHURESH PRASAD
For the Respondent State:		Ms Anu Priyadarshni, AC to GP 14
		Mr. Tripurari Nath, AC to GP 14
For Respondent No.4	:	Mr. S P Srivastava
		Mr. Amit Bhushan

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 20-07-2015

31.7.2010 is the order passed by the court of Additional Munsif-7, Muzaffarpur in Title Suit No. 71 of 1998. The order under challenge is the decision of the learned Munsif to implead respondent no.4 Krishna Kishore Singh as a defendant. Petitioner is irked by the said decision saying that the said respondent has admittedly nothing to do with the land in question in any manner.

2. Counsel for the petitioner tried to demonstrate before the Court that description of the land varies, plot number varies and therefore, respondent No.4 is not a necessary party to the suit.

3. That is a very simplistic kind of submission which has been made by the counsel for the petitioner.

4. Counsel for respondent No.4 has rightly brought to the notice of this Court a registered Power of Attorney, executed in his favour with regard to the property of which he is holder of a Power of Attorney. He had no problem so long as original description of land and plot number remained the subject matter of dispute and declaration. It is only after amendment changing the plot number from 969 to 966 was allowed by the court below that respondent No.4 asserted his right and learned Additional Munsif has taken those details and the reason as to why private respondent was required to be impleaded.

5. Counsel for the petitioner submits that on the principle laid down by the Hon`ble Apex Court in the case of **Vidur Implex and Traders Private Limited and others vs. Tosh Apartments Private Limited and others, (2012) 8 SCC 384**, the impugned order is vulnerable.

6. With due respect, the Hon`ble Supreme Court laid down a broad parameter as to what should form basis for such impleadment but merely because the Additional Munsif is not articulate, it does not mean that ingredient from reading of the impugned order is not evident.

7. In view of the above, no interference with the impugned order is warranted. Writ application of the petitioner is dismissed



R.K.Pathak/-

(Ajay Kumar Tripathi, J)

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