

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2203 of 2014

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Md. Hasim Ansari S/O Late Md. Atakarim Resident Of Village- Mastichak
Kisundas, Parganna- Maker, P.O.- Mastichak, P.S.- Dariyapur, District-
Saran **Petitioner.**

Versus

1. Bibi Idumisa Widow Of Late Masood Alam Resident Of Mauza-
Mastichak Kishundas, Parganna- Maker, P.O.- Mastichak, P.S.- Dariyapur,
District- Saran
 2. Takki Alam Son Of Late Masood Alam Resident Of Mauza- Mastichak
Kishundas, Parganna- Maker, P.O.- Mastichak, P.S.- Dariyapur, District-
Saran
 3. Naki Sadab Son Of Late Masood Alam Resident Of Mauza- Mastichak
Kishundas, Parganna- Maker, P.O.- Mastichak, P.S.- Dariyapur, District-
Saran
 4. Ahad Bapul, (Minor) Son Of Late Masood Alam Resident Of Mauza-
Mastichak Kishundas, Parganna- Maker, P.O.- Mastichak, P.S.- Dariyapur,
District- Saran
 5. Bibi Nashima Khatun Daughter Of Late Masood Alam Resident Of
Mauza- Mastichak Kishundas, Parganna- Maker, P.O.- Mastichak, P.S.-
Dariyapur, District- Saran
 6. Bibi Jehin Fatima Daughter Of Late Masood Alam Resident Of Mauza-
Mastichak Kishundas, Parganna- Maker, P.O.- Mastichak, P.S.- Dariyapur,
District- Saran
 7. Bibi Ruhi Ashwin Daughter Of Late Masood Alam Resident Of Mauza-
Mastichak Kishundas, Parganna- Maker, P.O.- Mastichak, P.S.- Dariyapur,
District- Saran
 8. Bibi Cham Cham Jhasim Daughter Of Late Masood Alam Resident Of
Mauza- Mastichak Kishundas, Parganna- Maker, P.O.- Mastichak, P.S.-
Dariyapur, District- Saran
 9. Bibi Kasaladly Daughter Of Late Masood Alam Resident Of Mauza-
Mastichak Kishundas, Parganna- Maker, P.O.- Mastichak, P.S.- Dariyapur,
District- Saran
 10. Bibi Sanahayat Daughter Of Late Masood Alam Resident Of Mauza-
Mastichak Kishundas, Parganna- Maker, P.O.- Mastichak, P.S.- Dariyapur,
District- Saran
 11. The State Of Bihar Through Collector, Saran
 12. The Collector, Saran, P.O. And P.S.- Chapra, District- Saran
 13. The Circle Officer, Dariyapur, District- Saran
 14. The D.C.L.R., Sonapur, District- Saran
 15. The S.D.O, Sonapur, District- Saran
 16. The Additional Collector, District- Saran **Respondents.**
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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

2 30-06-2015

Heard Mr.Binod Kumar Singh, the learned counsel appearing on behalf of the petitioner in the interlocutory application (I.A.No.3972/2015) as well as on the merits of this writ application.

Calling in question, the order dated 17.09.2013 by which the learned court below has allowed the prayer of Ram Bachain Rai and Kamla Pandey to be impleaded as party defendant in the suit, the petitioner has filed this application under Article 227 of the Constitution of India.

The suit has been filed by the plaintiffs for declaration of their title and further for declaration that the respondent no.1 has got no title over the suit property. A petition was filed by Ram Bachain Rai and Kamla Pandey on 02.05.2013 praying to implead them as party-respondents in the suit as they are purchasers of the part of the suit property from the defendant no.1 prior to the filing of the suit. The plaintiffs contested the prayer of the applicants and filed a rejoinder denying the entitlement of the defendant no.1 Masood Alam itself to sell the suit property in favour of the applicants. It has also been alleged in the rejoinder that the sale deed in favour of the applicants are void documents and on that basis no title has been acquired by the applicants.

The learned court below after hearing the parties, has allowed the prayer of the applicants by the impugned order and has impleaded them as parties-defendants in the suit after holding that the applicants have got interest in the suit property on the basis of their claim of purchase of the suit property from the defendant no.1.

Mr.Binod Kumar Singh, the learned counsel for the petitioner has submitted that the applicants have not disclosed the details including the date of their sale deeds which they have claimed to have obtained from the original defendant Masood Alam. It has been further pointed out by the learned counsel that even in the plaint, it has been the case of the plaintiff that no sale deed has been executed by Masood Alam to the knowledge of the plaintiff. It has been further canvassed that even the learned court below has not taken into notice the absence of the date of sale deeds or the details thereof on the basis of which the applicants have claimed themselves to be purchasers of the part of the suit property.

After perusing the impugned order and considering the submissions, it is apparent that in the rejoinder, the petitioner has not specifically contested the existence of the sale deed which the applicants have claimed to be in their favour with



regard to the part of the suit property rather it has been the case of the petitioner in the rejoinder that the sale deeds in favour of the applicants are void documents on the basis of which the applicants could not have acquired valid title over the suit property. The learned court below has taken into notice the details of the claim of the applicants with regard to their purchase of 6 katha 4 dhur land on different dates. In view of the stand of the petitioner assailing only the validity of the sale deeds and not denying their execution, this Court does not find any error of jurisdiction, material irregularity or illegality in the impugned order in impleading the applicants as party-defendants in the suit as the issue of the validity of the sale deeds of the applicants could not have been decided at that stage. Moreover, in the present writ application, the applicants who have been added as party-defendants in the suit by the impugned order, have not been impleaded as parties. It is evident that the applicants were necessary parties to this writ application.

For the aforesaid reasons and discussions, this Court does not find any merit in this writ application, which is, accordingly, dismissed.

The learned court below is directed to expedite the hearing of the suit as it has been submitted on behalf of the petitioner that the impleadment of the new defendants may delay

the disposal of the suit.

Nitesh/-

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(V. Nath, J)

