

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6121 of 2015

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Manawendradhwaj Singh, son of late Nildhwaj Singh R/o-Village-Nawgaon, P.O. Dumaria, P.S. Ramnagar, District-West Champaran.

.... Petitioner/s

Versus

1. Mithileshwari Devi daughter of late Fateh Bahadur Singh, wife of late Bux Singh, R/o Village-Chaunater Kala P.S.-Chaunater Kala Via-Tulsipur, District-Godda at present vill-Bargaon and P.O. -via Bagaha, P.S.-Bagaha, District-West Champaran.
2. Amardhwaj Singh, son of late Nil Dhwaj Singh, R/o Vill-Nawgaon, P.O.-Dumaria, P.S.-Ramnagar, District-West Champaran substituted by A. Anjali Singh wife of Amardhwaj Singh and B. Aniket Singh son of Amardhwaj Singh R/o-vill-Nawgaon P.O.-Dumaria, P.S. Ramnagar, District-West Champaran.
3. Kalyani devi wife of late Nil Dhwaj Singh, Resident of village-Nawgaon, P/o-Dumaria, P.s-Ramnagar, District-West Champaran, sub By-A. Ranjana Singh wife of Sri Shailendra Kumar Singh R/o Civil Lines Satna M.P. B. Nira Singh wife of Sri Arvind Kumar Singh R/p 26/10 Supoli House, Wazir Hassan Road, Lukhnow, (U.P.), C.- Rama Singh wife of Sri Prakash shani R/o Deo Bhawan (pandee para), Railway Gumti No. 3 Jalpaiguri (W.Bengal.), D.- Vandana Singh wife of Sri Harendra Singh R/o Mohalla-Kurji, Beupur, Kurji Patna all being the daughter of late Nil dhwaj Singh and at present all having common residential address as-vill-Nawgaon P./o Dumaria, P.S. Ramnagar, District-West Champaran.
4. Smt. Akhileshwari Devi alias Ahiya Devi daughter of late Fateh Bahadur Singh, R/o village-Chaunater Kala P.S. Chaunater Kala Via-Tulsipur, District-Godda (u.P.).
5. Smt. Maheshwari Devi Daughter of late Fateh Bahadur Singh, wife of Yogendra Pratap Singh R/o-vill-Makunahwa, P.s. Chaunater Kala Via-Tulsipur, District-Godda (U.P.,)
6. Smt. Brinda Devi, wife of late Dilip Narayan Singh at present vill-P.S.-Bargaon via Bagaha District-West Champaran.
7. Smt. Gayatri Devi Wife of Ravidra Yadav, R.O. Chadisthan, P.O.

Bagaha, District-west Champaran.

8. Most. Subhawati Devi wife of late Lallan Yadav-R/o Village(Pirpaiti)
P.O,. Bargaon, P.S. Bagaha, District-West Champaran.
9. Suresh Shah son of Shankar Shah R/o vill-Malpurwa, P.O. Bagaha, P.S.
Bagaha District-West Champaran.
10. Smt. LalChuni Devi wife of Kitab Baitha R/o Vill-Bargaon, Tola
Chhotkipaatti, P.O. Bargaon, P.S. Bagaha, District-West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravi Shankar Ganguli
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

3 13-10-2015 Heard Mr. Ganguli, the learned counsel for the

petitioner and Mr. Mishra, the learned counsel for the plaintiff-

respondent.

Calling in question the impugned order by which the
learned court below has allowed the prayer of the plaintiff-
respondent for addition of pendente lite purchasers of the suit
property as defendants in the suit, the present application under
Article 227 of the Constitution of India has been filed.

The plaintiff has filed the suit against the present
petitioner as one of the defendants alongwith other defendants
praying for declaration of title and confirmation of possession and
in the alternative for recovery of possession over the suit land.
From the averments made in the plaint (Annexure-1), it becomes
evident that the plaintiff and the defendants, as originally

impleaded in the suit, are descendants of a common ancestor. However, the plaintiff has claimed the suit property to be her self acquired property and has filed the suit for the above reliefs when the order under Section 145 Cr.P.C. was passed in favour of the defendants who claimed title and possession over the suit property on the basis of earlier partition.

During the pendency of the suit, the plaintiff filed the petition (Annexure-2) on 02.01.2015 stating therein that the plaintiff had come to know that the persons named in the petition had obtained the sale deeds dated 18.10.2014/21.10.2014 and 15.11.2014 for the suit land by setting up a fake person who executed those sale deeds impersonating the plaintiff. The plaintiff alleged those sale deeds to be forged and fraudulent documents. It has been prayed by the plaintiff on that basis that those purchasers be impleaded as party defendants in the suit. By the impugned order, the learned court below has allowed the prayer on behalf of the plaintiff.

The submissions of Mr. Ganguli, the learned counsel for the petitioner, has been pointedly based upon the rule against multifariousness as envisaged in Order 1 Rule 3 C.P.C. It has also been submitted that the suit is at the advanced stage of argument and impleadment of respondent-defendants, at the instance of the plaintiff, will create serious prejudice to the interest of the

defendant-petitioner who has already led his evidence.

From the conspectus of the provisions as contained in Order 1 Rule 3 C.P.C. relating to joinder of person(s) as defendant(s) in a suit, it is manifest that the right to relief against the proposed defendant(s) must flow from the same act or transactions or same series of acts or transactions, and some common questions of law or fact must arise against the proposed defendant(s) alongwith the defendants already on record. It is, however, evident that in the present case that the cause of action of the plaintiff against the proposed defendants has arisen out of entirely independent and different transaction and there is no common question of law or fact arising in between the proposed defendants and the defendants already on record.

Mr. Mishra, the learned counsel for the plaintiff-respondent, in response, has not disputed the above proposition but has submitted that the plaintiff cannot be left remediless in the facts and circumstances of the case and appropriate opportunity may be granted to the plaintiff to file a separate suit against the newly added defendants assailing the sale deeds as fraudulently obtained by them.

After careful consideration of the facts and the provisions of law as well as the stand taken by the learned counsel

for the plaintiff-respondent, this writ application is allowed and the impugned order allowing the prayer of the plaintiff for addition of the pendente lite purchasers of the suit property as party-defendants in the suit is set aside.

This order, however, shall not prejudice the right of the plaintiff to seek appropriate remedy, in accordance with law, including filing of a suit questioning the legality and validity of the sale deeds for the suit property as mentioned in the petition dated 02.01.2015 (Annexure-2).

The writ application is, accordingly, allowed with the aforesaid liberty to the plaintiff-respondent.

(V. Nath, J)

Devendra/-

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