

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7728 of 2013

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1. Amar Dayal Singh, S/O - Late Muni Singh.
 2. Amrit Raj S/O - Fulendra Prasad Singh.
 3. Amaresh Kumar S/O - Late Ram Sagar Singh.
 4. Jalendra Singh S/O - Jokhan Singh.
 5. Yashawant Singh S/O - Late Raj Grih Singh.
 6. Satya Narayan Singh S/O - Late Ram Subhag Singh.
 7. Munsu Singh.
 8. Sheo Jee Singh both Son of Late Anup Choudhary.
 9. Ravindra Nath Singh S/O - Late Raj Grih Singh.
 10. Satyendra Singh.
 11. Chandrama Choudhary both S/O - Anup Choudhary.
 12. Sanjay Kumar Singh S/O - Late Kanhaiya Singh all Resident Of
Village- Raghunathpur, P.O. - Baraon, P.S. - Nokha, District - Rohtas
At Sasaram.

.... Petitioners

Versus

1. Shree Ram Jee Laxman Jee, Janaki Jee, Thakur Jee , Maharaj Mandir,
Manja - Baraon Tola, Raghunathpur, P.O.- Khairadih, P.S. -Nokha,
District - Rohtas, Sasaram through Prabandh Karta Namely No.(2 To 4).
2. Ajay Kumar.
3. Akhilesh Kumar.
4. Abhay Kumar all Son Of Late Vijay Kumar R/O Village - Baraon Tola,
Raghunathpur, P.S. - Khairadih, District - Rohtas, At Present Mohalla -
Kajipura, P.O. - Sasaram, P.S. - Sasaram, District –Rohtas.
5. The State of Bihar through the Collector Rohtas, Sasaram.
6. The Anchaladhikari, Nokha Anchal, District – Rohtas.
7. The Mukhiya Gram Panchayat , Dakshmi Baraon Village - Baraon, P.O.
- Khairadih, P.S. - Khairadih, District – Rohtas.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Singh, Adv.

For the Respondent/s : Mr. Bajrangi Lal, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

2 28-07-2015

Heard the learned counsel for the parties.

Calling in question the impugned order by which the prayer of the petitioners for their addition as intervener-defendants in the suit has been declined, the present application under Article 227 of the Constitution of India has been filed.

The plaintiffs have filed the suit for declaration of title and for further declaration that the survey entry with regard to the suit land is not binding on the plaintiffs. From the perusal of the plaint which has been annexed with the writ application, it is evident that the State of Bihar as well as the Mukhiya of the concerned Gram Panchayat have been impleaded as defendants in the suit. The property has been recorded in the survey records of rights as Anabad Sarvasadharan. The writ petitioners have filed the petition in the capacity of the villagers asserting their right as a member of the public of that village over the suit land which they claim to be public land in use of the general public. The trial court, after considering the submissions as well as the averments in the petition and rejoinder by the rival parties, has rejected the prayer for addition as party-defendants in the suit.

The learned counsel for the petitioners has submitted



that under the provisions of Order 1 Rule 3 C.P.C. as well as Order 1 Rule 8 C.P.C. the petitioners are entitled to be impleaded as party defendants in the suit. It has been canvassed on behalf of the petitioners that since the suit property has been recorded as Anabad Sarvasadharan land, the petitioners who are members of the public have a right to defend their interest in the suit. It has been further also submitted by the learned counsel that the entry in the survey records of rights with regard to the suit land as Anabad Sarvasadharan land is the admitted fact and as the plaintiffs have claimed their individual title over the suit property it is necessary that the petitioners be granted opportunity to protect their rights as members of the public.

The learned counsel for the plaintiff-respondents has, however, opposed the prayer of the petitioners and has submitted that the plaintiffs have already impleaded the State of Bihar as well as the Mukhiya of the concerned Gram Panchayat as defendants who are legally enjoined to defend the interest of the public relating to public land. It has also been submitted that the petition has been filed with malafide intention to complicate the matter and the petitioners have no individual right to be impleaded as parties. It has also been pointed out by placing the averments made in the rejoinder filed in the present writ application that the petitioners belong to one family and are not representative of

public.

After perusal of the impugned order and the materials on record and considering the submissions on behalf of the rival parties, it is evident that the suit property has been recorded as Anabad Sarvasadharan land in survey records. The plaintiffs have impleaded the State of Bihar as well as the Mukhiya of the concerned Gram Panchayat as defendants in the suit. It is nowhere the case of the petitioners that their interest would not be adequately protected by the defendant-State of Bihar and defendant Mukhiya of the concerned Gram Panchayat. The learned counsel for the plaintiff-respondents has also placed reliance on the judgment of this Court in the case of **Guneshwar Prasad Vs. State of Bihar 2000 (3) PLJR 514** wherein also their Lordships have set aside the order passed by the trial court impleading the person claiming themselves to be representative of the public as defendants in the suit with regard to public land, on the basis that the State of Bihar as defendant in such suit had the right and legal entity to protect the interest in the public land. This Court has not been persuaded to take a different view of the matter in the facts of the present case where the petitioners, in their petition for impleadment, has accepted that 'Panchayat Bhawan' has been constructed over the suit land but it is no where their case that defendant-State of Bihar and Mukhiya, Gram Panchayat

would not adequately protect their interest.

In this view of the matter, this Court does not find any merit in this writ application, which is, accordingly, dismissed.

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(V. Nath, J)

