

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9387 of 2011

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1. Nageshwar Prasad Singh S/O Late Deo Lal Singh R/O Vill.- Randaha, P.S.- Raja Pakar, Distt.- Vaishali

.... Petitioner/s

Versus

1. Nitin Kumar S/O Nageshwar Prasad Singh R/O Vill.- Randaha, P.S.- Raja Pakar, Distt.- Vaishali Presently Residing At 6/259 Vinit Khand, P.S.- Gomti Nagar, Luckhnow (U.P.)

.... Plaintiff-respondent 1st set.

2. Smt. Sheema Kumari W/O Nitin Kumar And D/O Jaleshwar Prasad Singh At Present Resident Of Vill.+P.O.- Rahimapur, P.S.- Bidupur, Distt.- Vaishali (Bihar)

.... Defendant- Respondent 2nd set.

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Appearance :

For the Petitioner : Mr. Bimal Kumar

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 22-09-2015

Heard Mr. Bimal Kumar for the petitioner.

In spite of notice no one has appeared on behalf of the respondents to oppose the writ petition although one of them has appeared through a counsel.

Title Suit no. 379 of 2008 was filed by the plaintiff-respondent 1st set for declaration of his right, title and interest over both the properties set out in Schedule 1 and Schedule 2 of the plaint. However, a further relief was prayed for re-conveyance of the land by the defendant-wife in respect of property/land detailed in Schedule-2.

The petitioner being the father of the plaintiff and



father-in-law of the defendant filed an application under Order 1 Rule 10(2) of the Code of Civil Procedure (for short 'the CPC') for his impleadment as defendant since the land claimed by him was also involved in the suit. The plaint clearly indicates that the land of Schedule 1 property absolutely belonged to the petitioner. The school running over the land was managed by the trustees. The petitioner being the father of the plaintiff-respondent 1st set was also one of the trustees. On the strength of these pleadings available in the plaint, the petitioner filed the said application which was considered and rejected by order dated 21.5.2011 on amongst the grounds that in the Title Suit substantive relief only in respect of Schedule-2 property was prayed for.

Counsel for the petitioner has drawn attention of the Court to the relief part/portion of the plaint (Annexure-1) wherefrom it appears that in para 39(A), the plaintiff has also prayed for declaration of his title. It is, therefore, in respect of both the properties detailed in Schedule-1 as well as Schedule-2. If that be the case, then the petitioner would be necessary party to the proceeding pending before the trial Court.

Having regard to the facts appearing from the record and after hearing Mr. Kumar in support of the application, I am persuaded to allow the same. It is, accordingly, allowed. Order dated

21.5.2011 passed by the learned Subordinate Judge-I, Vaishali,
Hajipur in Title suit no. 379 of 2008 is set aside.

The writ application is allowed.

(Kishore Kumar Mandal, J)

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