

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11190 of 2014

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Bishnu Prasad Sah S/o Late Thakur Prasad Sah R/o Village Kasba, Shastri
Chowk, MadanGhat, P.S- Kasba, District- Purnea. Petitioner/s

Versus

1. Ratandev Gupta S/o Late Hardev Lal R/o Mohalla- Old Bus Stand, P.S-
K. Hat, District- Purnea.
2. Deepak Gupta Son of Late Haris Chandra Prasad resident of Old Bus
Stand, Purnea, P.S- K. Hat, District- Purnea. Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Dilip Kumar Sinha, Adv.
For the Respondent/s : Mr. Kameshwar Pd. Gupta, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

3 10-09-2015 Heard the learned counsel for the petitioner. After
notice, the plaintiff-respondents have also appeared.

The petitioner has called in question the order by
which his prayer for his addition as party defendant in the suit for
eviction has been turned down. It is the case of the petitioner that
the plaintiff has filed the suit against the respondent no. 2 alleging
that the respondent no. 2 is his tenant and has further alleged that
the present petitioner has come in possession over the suit shop as
sub-tenant through the defendant-respondent no.2. On this basis,
the writ petitioner filed a petition under Order 1 Rule 10 (2) C.P.C.
praying for impleading him as party defendant in the suit.

Mr. Dilip Kumar Sinha, the learned counsel for the
petitioner has submitted that the petitioner is in possession over
the suit shop in his own right as he has got title over the same. It

has been further contended by the learned counsel that the learned court below ought to have impleaded this petitioner as defendant, in view of the statement of the plaintiff that this petitioner is in possession over the suit shop as sub-tenant of the defendant.

The learned counsel for the plaintiff-respondent has opposed the prayer of the petitioner and supported the impugned order.

After hearing the learned counsel for the parties and considering the materials on record, it is manifest that the plaintiff has filed the suit for eviction against the defendant-respondent no. 2. The plaintiff has made specific statement in the plaint that the present petitioner has not been made defendant in the suit. In this view of the matter, the learned court has committed no illegality or error in refusing the prayer of the petitioner to implead petitioner as a party in the suit on the basis of his claim of the suit premises as title holder. However, it is observed that the rejection of the prayer of the petitioner to be added as party in the eviction suit shall not prejudice his right over the suit shop which he may claim and establish in law on the basis of his title.

The writ application is, accordingly, dismissed with aforesaid observation.

(V. Nath, J)

Devendra/-

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