

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9802 of 2015

=====

Smt. Durgawati Devi

.... Petitioner/s

Versus

Sri Vinay Kumar Singh & Ors

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 26-11-2015

Heard learned counsel Mr. Surendra Kishore Thakur for the petitioner on the Interlocutory Application No.5704 of 2015.

2. This interlocutory application has been filed by the defendant-petitioner praying for stay of further proceeding in Eviction Suit No.02 of 2004. At the time of hearing of the interlocutory application the learned counsel for the petitioner submitted that the writ application itself may be heard on merit in admission matter. Accordingly, I heard him.

3. This application under Article 227 of the Constitution of India has been filed by the tenant-defendant-petitioner challenging the order dated 06.04.2015 passed by Civil Judge-I, Vaishali at Hajipur in Eviction Suit No.02 of 2004 whereby the court below has allowed the application filed by respondent no.5 for being impleaded as plaintiff no.1 in the eviction suit.

4. It appears that the original plaintiff filed the eviction

suit against the defendant-petitioner on the ground of default. During the pendency of the suit he died and thereafter the purchaser, who is respondent no.5 herein, filed an application for being added as party plaintiff on the ground that he has purchased the suit premises from the original plaintiff. The court below by the impugned order has allowed the said application.

5. The learned counsel submitted that the court below has allowed the application without assigning any valid reason and if respondent no.5 is allowed to be added as party plaintiff, the defendant-petitioner shall suffer serious loss and irreparable injury because of the fact that the cause of action will be changed.

6. From perusal of the impugned order dated 06.04.2015, it appears that only issues have been framed in the suit and plaintiff has still to start his evidence. Admittedly the original plaintiff has died and the purchaser has filed the application under Order 22 Rule 3 read with Order 1 Rule 10 and Order 22 Rule 10 CPC. Considering these aspects of the matter the court below has allowed the application. Therefore, in my opinion, by the impugned order no prejudice is caused to the defendant. In such circumstances the impugned order cannot be interfered with in exercise of jurisdiction under Article 227 of the Constitution of India.

7. Thus, this writ application is dismissed.

Consequently, the interlocutory application is also rejected.

Harish/-

(Mungeshwar Sahoo, J)

U			
---	--	--	--