

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19654 of 2010

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1. Chhotelal Sah S/O Sundar Sah R/O Vill. Singhiya Makandpur, P.S. Gopalpur, Distt. Bhagalpur
 2. Brahmadeo Sah S/O Laxmi Sah R/O Vill. Singhiya Makandpur, P.S. Gopalpur, Distt. Bhagalpur
 3. Butan Sah S/O Laxmi Sah R/O Vill. Singhiya Makandpur, P.S. Gopalpur, Distt. Bhagalpur
 4. Mahanath Sah S/O Laxmi Sah R/O Vill. Singhiya Maandpur, P.S. Gopalpur, Distt. Bhagalpur.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Collector , Bhagalpur
2. Mahendra Sah S/O Bouku Sah R/O Singhiya Makandpur, P.S. Gopalpur, Distt. Bhagalpur At Present Residing At Mah Nagar Teliyare, P.S. Bhawanipur (Rajdham) Distt. Purnea
3. Rajendra Sah S/O Bouku Sah R/O Singhiya Makandpur, P.S. Gopalpur, Distt. Bhagalpur At Present Residing At Mah Nagar Teliyare, P.S. Bhawanipur (Rajdham) Distt. Purnea
4. Ravi Bhushan Sah S/O Girishwar Sah R/O Vill. Singhiya Makandpur, P.S. Gopalpur, Distt. Bhagalpur
5. Chandra Bhushan Sah S/O Girishwar Sah R/O Vill. Singhiya Makandpur, P.S. Gopalpur, Distt. Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SUNIL KUMAR SINGH 2

For the Respondent/s : Mr. Shashi Shankar Prasad Sinha, A.C. to G.A. 13

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 06-08-2015

Heard both the Counsels.

The plaintiffs of Title Suit No. 5 of 2005 have filed the present application to assail the order dated 15.6.2007 passed by Sub-Judge-I, Naugachia in Title Suit No. 5 of 2005 which was filed for declaration of right, title and interest in the subject land and also for setting aside the entries made in the Records of Rights in the name of State of Bihar. In the suit, two applications were filed, one by Respondent



nos. 2 and 3 and another by Respondent nos. 4 and 5, for their impleadment in the suit as defendants to oppose the prayer. Rejoinder thereto was filed by the petitioners. The Trial Court by the impugned order dated 15.6.2007 noticed the case of the parties vis-à-vis the subject land and allowed both the applications and the applicants thereof were permitted to be impleaded as defendants. Aggrieved thereby, the present writ petition has been filed.

Contention of the petitioners is that the suit was filed against the State of Bihar for declaration of right, title and interest over the subject land after setting aside the entries made in the Records of Right. The respondents were, therefore, not required to be impleaded as defendants in the present suit, particularly, when the intervenor defendants (private respondents herein) had already instituted a suit. Such impleadment shall delay the disposal of the suit.

Counsel for the State has supported the impugned order.

Order 1 Rule 10 of the Code of Civil Procedure (for short 'the Code'), which was invoked by the intervenor respondents and allowed by the Court, gives wide jurisdiction to the Court for adding as party to the suit for determination of the real matter in dispute. The Court has discretion in such matter. Such discretion has been exercised for the reasons recorded. On perusal of the order, it appears that the factual background in which those applications were filed has been

noticed in detail by the Court before allowing the application. This Court, in exercise of its power of superintendence, will not re-appraise those reasonings set out by the Court for allowing those applications. Even if the respondents are allowed to intervene, the plaintiff is not put to serious prejudice. On the contrary, the claim of the petitioner-plaintiff shall be decided in presence of the State of Bihar as also the other claimants, such as the intervenor defendants (private respondents herein).

Considering the matter in that perspective, in my view, invocation of writ jurisdiction shall not be an appropriate exercise of power in this case. However, considering the fact that the suit is of the year 2005, this Court would observe that the Trial Court shall expedite hearing and disposal of the suit and no unnecessary adjournments shall be granted to the defendant for leading evidence if they choose to do so.

The application is dismissed with the aforesaid observation.

(Kishore Kumar Mandal, J)

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