

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14516 of 2013

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Sadhu Sharan Singh Son Of Late Ram Ekwel Singh Residing At Village Ahirpurba,
P.S. Ara Nagar, P.O. Ara, District Bhojpur

.... Petitioner/s

Versus

1. The State Of Bihar Through District Collector Bhojpur At Ara
2. Sant Bilash Singh Son Of Late Ram Ekwel Singh Resident Of Village -
Ahirpurba, P.S. - Ara Nagar, P.O. - Ara District - Bhojpur
3. Jit Lal Rai @ Shit Lal Rai Son Of Manjhi Lal Rai Residing At Permanent
Mauja Ganga Tola, P.S. Maner, District - Patna And Presently Residing At
Ahirpurba, P.S. Ara Nagar, P.O. - Ara, District – Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar, Adv.

For the Respondent/s : Mr. Ravindra Kr Choubey, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 06-12-2016

Heard learned counsel for the petitioner and learned
counsel for the respondents.

The legal sustainability of the impugned order by which
the learned court below has turned down the prayer of the petitioner
for his impleadment in the suit as defendant has been questioned in
the present application under Article 227 of the Constitution of India.

The materials on record demonstrate that a suit was filed
by the plaintiff-respondents against the State of Bihar and other
persons. From the perusal of the copy of the plaint which has been
annexed as Annexure-1 to this application, it transpires that the



defendant no. 1 is the State of Bihar and defendant no. 2 is Jit Lal Rai. The reason for filing the suit has been mentioned in the plaint that the recent survey khatian has been wrongly prepared in the name of the defendants whereas the suit property is the ancestral property of the plaintiff. The relief has been prayed for declaration of title and further for declaration that the entry in the recent survey khatian in the names of the defendants with regard to the suit property is wrong. The prayer for injunction has also been made against the defendants. It transpires that during the pendency of the suit the present petitioner filed an application praying for his addition as defendant in the suit on the ground that he has got right, title and interest in the suit property as he was the elder brother of the plaintiff. The learned court below by the impugned order has rejected the petition filed by the petitioner.

After considering the submissions and materials on record including the impugned order, it is pellucid that the plaintiff has not claimed any relief against the petitioner and the only relief which has been prayed is against the two defendants in the suit on the ground that the recent survey khatian with regard to the suit property has been wrongly prepared. Though, the learned counsel for the petitioner has submitted that the decree which may be passed in the suit would bind the right, title and interest of the present petitioner but this submission could not be substantiated by any principle or



precedent. This court thus has not been persuaded to conclude that the right title and interest which the petitioner might have in the suit property would be affected in any manner by the decree to be passed in the suit.

The provision of Order 1 Rule 10 (2) C.P.C. is also clear on this aspect where the prayer for addition of only such a person in the suit has been envisaged whose presence before the court is necessary for determination of the issues arising between the parties. The jurisdiction under the said provision cannot be invoked by a person for establishing his own right, title and interest and on an independent cause of action.

In the backdrop of the aforesaid facts and discussions, this Court is not inclined to interfere with the impugned order. The application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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