

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8460 of 2014

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1. Uma Shankar Prasad son of Ramanand Prasad.
 2. Dhruvdeo Prasad, son of Ramanand Prasad.
 3. Vidya Bhushan Prasad son of Ramanand Prasad.
 4. Gautam Prasad son of Ramanand Prasad.
 5. Lallan Prasad, son of Ramanand Prasad All are residents of Village- Chauki Hasan, Pragana- Bara, Police Station- Barhariya, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Siwan.
2. The Circle Officer, Circle Office, Barhariya, District Siwan.
3. Bisandayal Giri son of Jagnath Giri, resident of village- Dindayalpur, Pragana- Bara- Police Station- Barhariya, District Siwan.
4. Daroga Prasad son of Late Suryadeo Prasad.
5. Subas Prasad son of Late Suryadeo Prasad.
6. Sanjay Kumar son of late Gopal Jee Prasad.
7. Laxmi Devi wife of Late Ram Kailash Prasad.
8. Kiran Devi daughter of late Ram Kailash Prasad, wife of Kanhaiya Jee Prasad.
9. Anu Devi daughter of late Ram Kailash Prasad, wife of Rajesh Kumar Verma.
10. Rajita Devi daughter of late Ram Kailash Prasad, wife of Vijay Kumar Shrivastava 4 to 10 are residents of village- Chauki Hasan, Pragana- Bara, Police Station- Barhariya, District Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary
For the Respondent/s : Mr. Gp4- Uma Shankar

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

3 08-03-2016

Heard the learned counsel for the parties.

By the impugned order, the learned court below has

rejected the prayer of the petitioners for being impleaded as interveror-defendants in the suit.

The fact is not in dispute that the plaintiffs have filed the suit for declaration of their title over the suit property and further for declaration that the defendants have got no concern with the suit properties. It would be relevant to mention that in the said suit the plaintiffs have impleaded State of Bihar and its officials as defendants. It also transpires from the impugned order and has not been denied on behalf of the petitioners that earlier to the present petition, a petition was filed by the petitioners for their impleadment as party-defendants in the suit but the same was dismissed as not pressed in the year 1983 itself. It also appears that another petition was filed for the same prayer by the petitioners which was allowed by the learned court below and the petitioners were impleaded as parties in the suit. However, the plaintiffs challenged the said order before this Court in C.W.J.C. No. 1112 of 2011 and by order dated 05.05.2011 the order dated 20.08.2010 passed in the suit by which the petitioners were impleaded as intervernor-defendants in the suit was set aside and the matter was remitted back to the trial court to decide the prayer afresh. Thereafter the impugned order has been passed whereby the learned court below has rejected the petition filed by the

petitioners for their impleadment as parties in the suit.

The learned counsel for the petitioners has submitted that the earlier order of rejection of the petition filed by the petitioners in the year 1983 would not operate as res judicata. It has been further contended that by another order, though the same has been set aside, the prayer of the petitioners for their addition as party defendant in the suit was allowed and in the said order, the trial court had given valid and sound reasons pointing out the fact that the petitioners had direct interest in the suit land. It has been further submitted by the learned counsel for the petitioners that in the suit the plaintiffs have accepted that the suit land originally belonged to the predecessor of the present petitioners and therefore the petitioners are all the more necessary parties as any adjudication in the suit would affect their right, title and interest in the suit land. The reliance has been placed by the learned counsel for the petitioners on the decision of the Apex Court in the case of **Razia Begum Vs. Sahebzadi Anwar Begum, A.I.R. 1958 S.C. 886** in support of the submission that the court has wide discretion where the party praying for addition as defendants has been found to have direct interest in the suit properties.

The learned counsel for the State-respondents has, however, contested the submissions made on behalf of the

petitioners and has submitted that there is no error of jurisdiction in the impugned order and the discretion exercised by the learned court below may not be interfered as the same is not unreasonable or perverse.

After considering the submissions and the materials on record, it is not in dispute that the plaintiffs have filed the suit for declaration of their title over the suit property as mentioned in the schedule of the plaint. The plaintiffs have also mentioned that the cause of action for the suit has arisen only after receiving a notice by the defendants alleging encroachment by the plaintiffs over the suit land. From the impugned order as well as from the submission made on behalf of the petitioners, it is transparent that the petitioners have come out with the case of their own independent title over the suit land and have denied the title of the plaintiffs as well as the defendants. It is also manifest that the reliefs sought for by the plaintiffs in the suit are in no way detrimental to the right, title and interest of the petitioners which they might have got over the suit land as the decree to be passed in the suit would not be binding upon the petitioners. The decision in the case of Razia Begum (supra), relied upon on behalf of the petitioners has been taken into notice by the apex court in the case of Ramesh Hiranand Kundanmal Vs. The Municipal

Corporation of Greater Bombay, 1992 (2) Judgment Today

SC. 116 and it has been laid down that the person seeking to be added as party in a suit must be the person who would be bound by the result of the suit which may legally affect him by curtailing his legal rights over the suit property. It would be profitable here to take into notice the observations of their lordships as follows:

“.....The only reason which makes it necessary to make a party to an action is so that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party. The line has been drawn on a wider construction of the rule between the direct interest or the legal interest and commercial interest. It is, therefore, necessary that the person must be directly or legally interested in the action in the answer i.e. he can say that the litigation may lead to a result which will affect him legally that is by curtailing his legal rights. It is difficult to say that the rule contemplates joining as a defendant a person whose only object is to prosecute his own cause of action.”

In view of the dictum as above, this Court is not inclined to interfere in the impugned order. The writ application is

accordingly, dismissed.

The learned counsel for the petitioners, however, has prayed that the liberty may be given to the petitioners to file their own suit. It is observed that this order will not prejudice the right, title and interest of the petitioners in the suit property in an independent action by him for legal redressal of his grievances.

Devendra/-

(V. Nath, J)

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