

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9187 of 2014

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Upendra Mandal Son of Late Mirchaini Mandal Resident of Village - Gurmhi, P.S.
- Simrah (Farbishganj) District - Araria.

.... Petitioner/s

Versus

1. Ramesh Prasad Maheshwari Son of Late Ghaghi Ram Tapadiya Resident of Village - Uttar Maheshwari Jogbani.
2. Chandranand Singh Son of Late Sukhi Singh Resident of - Farbishganj, Subash Chauk, Ward No. 2, P.O. + P.S. - Farbisganj, District - Araria.
3. Arun Kumar Singh Son of Chandranand Singh Resident of - Farbishganj, Subash Chauk, Ward No. 2, P.O. + P.S. - Farbisganj, District - Araria.
4. Subash Chandra Son of Late Surajbhan Resident of village - Gurmi, P.S. - Farbisganj, District - Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Aditya Narayan Singh, Adv.
: Mr. Uday Prasad Singh, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 06-05-2016

Heard Mr. Aditya Narayan Singh, learned counsel for the petitioner.

Calling in question the legal sustainability of the impugned order by which the petition filed by the petitioner for his impleadment in the suit as intervenor-defendant has been turned down, the present application under Article 227 of the Constitution of India has been filed.

The facts are not in dispute that the suit has been filed by



the plaintiff challenging the legal validity of the sale deed which has been executed by the defendant nos. 1 and 2 in favour of the defendant no. 3. The petitioner claims to have filed a petition for preemption on the ground of being a vicinage raiyat. On this basis, the petitioner has filed the petition for being added as a party in the suit stating that the suit has been filed only for the purpose of defeating the claim of the petitioner for preemption. The learned court below, by the impugned order has rejected the petition after holding that the petitioner is neither a necessary party nor a proper party and there is no impediment in disposal of the suit on merits in absence of the petitioner as party.

Mr. Singh, learned counsel for the petitioner has submitted that the learned court below has not properly appreciated the facts that the suit has been filed purposely to defeat the claim of the petitioner for preemption and therefore the petitioner is a necessary or at least a proper party.

After considering the submissions and the perusal of the impugned order, this Court does not find that there is any illegality or error of jurisdiction committed by the learned court below in passing the impugned order rejecting the prayer of the petitioner for his addition as a party in the suit. Only because the petitioner has filed a preemption case against the plaintiff would not be sufficient to

support his presence before the court for determination the questions arising between the parties in the suit. This Court, therefore, does not find any merit in this application.

Accordingly the present application is dismissed.

(V. Nath, J)

Devendra/-

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CAV DATE	
Uploading Date	
Transmission Date	