

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7953 of 2015

Prakash Kumar

.... Petitioner/s

Versus

Shyam Rungta & Anr

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 08-04-2016

Heard, learned counsel, Ms. Megha Sinha, appearing on behalf of the petitioner and learned counsel, Mr. Ashok Kumar, appearing for the respondents.

2. The learned Sub-Judge-I, Bettiah, West Champaran, by order dated 31.03.2015 rejected the application filed by the petitioner under Order 1 Rule 10 C.P.C. for being added as party in T.S. No. 133 of 2011.

3. It appears that the plaintiff-respondents filed the aforesaid suit for specific performance of contract between the plaintiff and the original defendant. The petitioner filed application for being added as party alleging that in fact, the suit property is the joint family property and, therefore, he has got interest. As such, he is a necessary party in the suit. The trial court by the impugned order has rejected the said application.

4. Admittedly, the petitioner is not a party to the

contract. The defendant is contesting the suit for specific performance of contract. So far the claim of the present petitioner is concerned, he is raising the question that the suit property although acquired in the name of Sushma Devi, it was acquired out of the joint family income. Therefore, the petitioner has got a share. So far this dispute, which is being raised by the petitioner is concerned, it is clearly a foreign issue, which can not be decided in the suit for specific performance of contract. Therefore, for deciding the issue involved in the suit for specific performance, the presence of the present intervener-petitioner is not at all necessary. The court below has, therefore, rightly rejected the application.

5. In such view of the matter, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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