

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.171 of 2016**

Radha Devi

.... Appellant/s

Versus

Sri Krishna Prasad & Anr

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Anil Kumar Dwivedi

For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 08-08-2016

Heard the learned counsel, Mr. Anil Kumar Dwivedi for
the petitioner.

Perused the order dated 08.04.2016 passed by Sub Judge
II, Danapur in Title Suit No.247 of 2011 whereby the Court below
has allowed the intervention application filed by the intervener-
respondent for being added as party in the suit on the ground that
he is purchaser of the suit property from the defendant prior to
filing of the suit for specific performance.

The learned counsel for the petitioner relied on a
decision of this Court reported in 2008(3) PLJR 178 and submitted
that the stranger to the contract is not a necessary party in a suit
for specific performance of contract. The intervener is purchaser
of the suit property prior to filing suit for specific performance of
contract filed by the petitioner.

As submitted by the learned counsel for the petitioner,



the suit has been filed on 06.09.2011 whereas the sale deed is dated 12.08.2011, therefore, the intervener was owner having acquired title because of registered sale deed dated 12.08.2011. The suit has been filed subsequent to the purchase made by the intervener. Now, therefore, he has got direct vital interest in the suit property and if any decree is passed in the suit for specific performance of contract, it cannot be enforced against him in view of Section 19(b) of Specific Relief Act.

Section 19(b) provides that **“except as otherwise provided by this Chapter, specific performance of a contract may be enforced against- (b) any other person claiming under him by a title arising subsequently to the contract, except a transferee for value who has paid his money in good faith and without notice of the original contract.”**

The Hon’ble Supreme Court in the case of **Mumbai International Airport Private Limited vs. Regency Convention Centre and Hotels Private Limited and others, (2010) 7 Supreme Court Cases 417** has considered the case of **Kasturi vs. Iyyamperumal, (2005) 6 Supreme Court Cases 733** and the subsequent decision of the Supreme Court in the case of **Sumtibai and others v. Paras Finance Co. & Ors.(2007) 10 Supreme Court Cases 82** and held that “it cannot be laid down as an

absolute proposition that whenever a suit for specific performance is filed by A against B, a third party C can never be impleaded in that suit. If C can show a fair semblance of title or interest he can certainly file an application for impleadment.”

In view of the above legal position, I find no reason to interfere with the impugned order and accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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