

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.306 of 2016

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Bipin Kumar Ram & Ors

.... Appellant/s

Versus

Nand Gopal Rai & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Viveka Nand Singh

For the Respondent/s : Mr. Nirbhay Kr. Singh- Gp26

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 24-06-2016 Heard the learned counsel, Mr. Sanjay Kumar, for the petitioner and the learned counsel, Mr. Krishna Kumar, A.C. to G.P.26.

It appears that the suit was filed for declaration of title by the plaintiff respondents against the State authorities. The suit has been decreed. The State authorities have filed appeal before the lower appellate Court. Before the lower appellate Court, application for intervention was filed by the petitioners. Earlier it was allowed and the name of the petitioners were added. However, recall application was filed and the plaintiff filed writ application before this Court. This Court remanded the matter and directed that while considering the application filed by the petitioner for recall of the order, the Court below shall not be influenced either by the order dated 12.12.2011 or by the order dated 29.01.2014 and the writ application was disposed of.

Thereafter, the review application was heard by the Court below and has passed the reasoned order which is impugned in this writ application.

It appears that the Court below found that the earlier order whereby the petitioners were added was non-speaking order. It is the settled principal of law that the Court has the jurisdiction to add a person as a party in a suit if the Court came to the conclusion that the petitioner seeking to be added as party is a necessary party or proper party. In the earlier order, the Court below allowed the application only on the ground that no rejoinder has been filed without recording any finding that the petitioners are necessary party. The Court below also held that the settlement have been made in favour of the petitioners after the Judgment passed in title suit in the year 1963 and, therefore, the petitioners have got no title or interest in the property. So far this observation regarding the title of the petitioners is concerned, it may be mentioned here that this observation or finding as has been recorded while the Court below was considering the intervention application. Therefore, prima facie at this stage, when the Court below held that the petitioners are not necessary party, the Court has no jurisdiction to add them as party and accordingly, the Court below has rightly recalled the order thereby rejected the

application filed by the petitioners for being added as party.

So far the observation that the petitioner have got no right title or interest is concerned, since it is passed in interlocutory matter, it will never operate as res judicata in future litigation, if any, between the parties. If at all the petitioners have got any right, title and interest, they are at liberty to initiate appropriate proceeding before appropriate forum but in this proceeding, they are not necessary party.

Thus, I find no reason to interfere with the impugned order and accordingly, this Civil Misc. Application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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