

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2122 of 2013

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1. Ram Swarath Rai Son of Late Ram Nandan Rai.
 2. Dinesh Rai Son of Ram Chandra Rai both of Village Rupaulu Tola Bhaluaha, P.S. Dumra, District- Sitamarhi.
 3. Ram Karan Rai Son of Late Babulal Rai of Village Rupauli Tola Dhanukhi P.S. Dumra, District- Sitamarhi

.... Petitioner/s

Versus

1. Kewala Devi Wife of Nawal Rai and D/O Ram Baran Rai Resident of Village Bhakrohiya Dumharpatti, P.S. Pupri District- Sitamarhi.
2. Bachcha Rai Son of Late Ram Baran Rai.
3. Ramakant Rai Son of Late Ram Pukar Rai.
4. Kusumkala Kumari.
5. Nibhaya Kumari both Daughter of Late Ram Pukar Rai respondent no. 2 to 5 of Village- Rupauli Tole Bhaluaha, P.S. Dumra, District- Sitamarhi
6. Rabindra Kumar/ Uma Shankar Yadav.
7. Birendra Kumar/ Uma Shankar Yadav
8. Surendra Kumar son of Uma Shankar Yadav
9. Chhotu Kumar minor Son of Uma Shankar Yadav Under The Guardianship of His Father Uma Shankar Yadav respondent no. 6 to 9 Of Village- Bhutaha, P.S. Pupri, District- Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

4 05-01-2016

Heard the learned counsel for the petitioners.

Nobody appears on behalf of the respondents even after valid service of notice in pursuance to the earlier order dated 07.02.2013.

Calling in question the legal sustainability of the impugned order whereby the petition filed by the petitioners for their impleadment as intervener-defendants in the suit has been rejected, the present application under Article 227 of the Constitution of India has been filed.

There is no dispute that the petitioners are the purchasers from the plaintiff during the pendency of the suit for partition filed by the plaintiff. The sale deeds in favour of the petitioners have been executed on 21.07.2011 and 08.09.2011 with regard to the part of the suit land after filing of the partition suit on 19.07.2011. The prayer of the petitioners for their impleadment has been rejected by the learned court below on the ground that their purchase is hit by the principle of lis pendens.

The learned counsel for the petitioners has submitted that as the petitioners are purchasers of the part of the suit land they are necessary parties and the learned court below should have allowed their prayer for addition as party defendants in order to protect their interest. It has also been submitted that the defendants in the said suit are raising dispute with regard to the status of their vendor who is the plaintiff in that suit.

After considering the submissions, facts and circumstances of the case, it is manifest that the plaintiff of the

partition suit has sold the property which is part of the suit land after filing of the suit for partition. The submission on behalf of the petitioners that the petitioners are the necessary parties to the suit for protection of their interest is not acceptable for the reason that the petitioners are admittedly stranger to the family of the plaintiff and the defendants of the said partition suit and as purchaser they are entitled to get their purchased property from the share which may ultimately be allotted to their vendor.

In this view of the matter, this Court does not find any illegality or irregularity in the impugned order declining the prayer of the petitioners to be impleaded as party in the suit. However, this order shall not prejudice the petitioners' right to get their purchased property from the share of the property which may be allotted to their vendor and they shall be entitled to make prayer in that regard at the appropriate stage of the suit.

This writ application is, accordingly, dismissed with the aforesaid liberty to the petitioners.

(V. Nath, J)

Devendra/-

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