

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9 of 2016**

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Parmanand Goswami

.... .... Petitioner/s

Versus

Bharat Chaudhary & Anr

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Surendra Kishore Thakur

For the Respondent/s : Mr.

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

2 01-07-2016

Heard learned counsel Mr. Surendra Kishore Thakur for  
the petitioner.

Perused the order dated 10.07.2015 passed by  
Subordinate Judge-V, Hajipur (Vaishali) in Title Suit No.435 of  
2002 whereby the court below has allowed the intervention  
application filed by respondent no.2 recording clear finding that  
on the basis of papers produced it is clear that prima facie the  
intervener has interest in the property and he is a proper party.

The only grievance of the petitioner is that the plaintiff  
is *dominus litis* and in the present case no relief has been claimed  
against intervener, therefore, the court below could not have  
allowed the intervention application compelling the plaintiff to  
fight the case against the intervener against whom the petitioner is  
not claiming any relief. Secondly the learned counsel submitted  
that this finding of the court below is wrong.

So far the first submission of the learned counsel for the

petitioner is concerned, it is settled principles of law that the general rule in regard to impleadment of parties is that the plaintiff in a suit being *dominus litis* may choose the persons against whom he wishes to litigate and cannot be compelled to sue a person against whom he does not seek any relief. Consequently a person who is not a party has no right to be impleaded against the wishes of the plaintiff. But that general rule is subject to the provisions of Order 1 Rule 10(2) of the Code of Civil Procedure by which the Court is given discretion to add as a party, any person who is found to be necessary party or proper party. Therefore, in the present case the court below has clearly recorded the finding.

So far the second submission of learned counsel for the petitioner is concerned, it appears that the court below has on the basis of documentary evidences recorded finding. Therefore, in exercise of supervisory jurisdiction this Court cannot re-appreciate the evidence as if this Court is exercising appellate jurisdiction and this Court cannot substitute its own finding for the purpose of supervising the impugned order. Accordingly, I find no reason to interfere with the impugned order.

Thus, this writ application is dismissed.

Harish/-

**(Mungeshwar Sahoo, J)**

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