

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7421 of 2014

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1. Vinay Kumar Gupta Son of Awadh Bihari Gupta and Grand Son of Late Bindeshwari Shah Resident of Village- Daud Chapra, Police Station- Minapur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. Kedar Sah Son of Late Ram Sharan Sah Resident of Village Daud Chapra, P.S- Minapur Munsifi, Muzaffarpur East, District- Muzaffarpur.
2. Sanjay Sah Son of Badari Sah
3. Sanjeev Kumar Son of Badari Sah
4. Nand Kishore Sah Son of Late Awadh Sah
5. Satya Narayan Sah Son of Late Baldeo Sah
6. Jagat Narayan Sah Son of Late Baldeo Sah
7. Ram Narain Sah Son of Late Baldeo Sah
8. Jailendra Prasad Son of Girija Sah
9. Shree Ram Sah Son of Girija Sah All 2 to 9 are resident of Village Daud Chapra, P.S and Anchal- Minapur, Munsifi, District- Muzaffarpur
10. Bihar Hindu Religious Trust Board, Patna through its President

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mani Bhushan Kumar
For the Respondent/s : Mr. Ganpati Trivedi

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 18-02-2016 Heard learned counsel, Mr. Mani Bhushan Kumar, appearing for the petitioner as well as Mr. S. Singh, appearing on behalf of the respondent No.10.

2. By the impugned order dated 05.02.2014, the learned Sub-Judge- 9th, Muzaffarpur in Title Suit No. 05 of 1993 rejected the intervention application filed by the petitioner recording a finding that the petitioner is not a necessary party.

3. It appears that the plaintiffs-respondents filed suit for



declaration that the property in suit is not the public trust property rather it belonged to the plaintiffs. The Plaintiffs further prayed for declaration that the plaintiff is the appointed Sibayat of the trust and defendant No.2 is not the Sibayat of Ramlakhan Mahato. The interveners-petitioners filed application for being added as party on the ground that in fact, he is Sibayat and he is managing the property. The court below after considering the contentions of both the parties held that presence of present petitioner for deciding the real controversy between the parties is not necessary. In other words, it has been held that the petitioner is not a necessary party to the suit in view of the contention and dispute raised between the parties in the suit.

4. The Hon'ble Supreme Court in the case of ***Mumbai International Airport Private Limited Versus Regency Convention Centre and Hotels Private Limited and Others*** reported ***in (2010) 7 SCC 417*** at paragraph 24 -3 has held that if a person makes an application for being impleaded contending that he is a necessary party, and if the court finds that he is a necessary party, it can implead him. If the plaintiff opposes such impleadment, then instead of impleading such a party, who is found to be a necessary party, the court may proceed to dismiss the suit by holding that the applicant was a necessary party and in

his absence the plaintiff was not entitled to any relief in the suit. In the present case, at our hand, the case is otherwise. The court below has clearly held that the petitioner is not a necessary party. In the aforesaid decision itself at paragraph 25, it has been held that in other words, the court has the discretion to either allow or reject and application of a person claiming to be a proper party, depending upon the facts and circumstances and no person has a right to insist that he should be impleaded as a party, merely because he is proper party.

5. In the present case, considering the facts and circumstances of the case, the court below has exercised its jurisdiction. Therefore, in exercise of supervisory jurisdiction, impugned order cannot be interfered. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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