

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18818 of 2015**

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Ramdut Yadav

.... .... Petitioner/s

Versus

Yugal Kishore Yadav & Anr

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Bachan Jee Ojha

For the Respondent/s : Mr.

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

**ORAL ORDER**

2      08-02-2016    1.            Heard the learned counsel, Mr. Bachan Jee Ojha, on behalf of the petitioner.

2.            The intervener petitioner has filed this application under Article 227 of the Constitution of India for setting aside the order dated 09.10.2015 passed in Title suit No.87 of 2011 whereby the learned Sub Judge I Dumraon, District Buxar rejected the application filed by the petitioner under Order I Rule 10 CPC.

3.            According to the learned counsel, earlier application of the petitioner was rejected recording a finding that he is not necessary party in the present suit. At that time the petitioner had not filed title suit No.477 of 2014. When his application was rejected under Order I Rule 10 CPC, the petitioner filed title suit No.477 of 2014. Then he filed application for being added as party but the Court below rejected the same and hearing both the

suits analogously.

4. Perused the order passed by the Court below. It is admitted fact that title suit No.87 of 2011 has been filed by Mahendra Rai and others wherein the present intervener is not a party. The contesting defendant is Jugal Yadav. The present petitioner has filed title suit No.477 of 2014 wherein Mahendra Rai is not a party. Jugal Kishore is the main defendant. Now, therefore, if the petitioner is added as party in this present case, the dispute which is being raised by the petitioner in his title suit will be the dispute in this present suit, i.e, dispute will be between Jugal Kishore and the plaintiff of title suit No.477 of 2014. This dispute will be inter se dispute between the defendant.

5. The Hon'ble Supreme Court in the case of *Kasturi vs. Iyyamperumal* 2005 (6) S.C.C. 733, has interpreted Order 1 Rule 10 sub Rule 2 C.P.C. and has held that **‘from a plain reading of expression “all the questions involved in the suit” used in Order 1 Rule 10 (2) C.P.C., it is abundantly clear that the Legislature clearly meant that only the controversies raised as between the parties to the litigation must be gone into, that is to say, controversies with regard to the right which is set up and the relief claimed on one side and denied on the other and**

**not the controversies which may arise between the plaintiffs or the defendants intersee or questions between the parties to the suit and third party.’**

**6.** In view of the above position of law and when the Court below has found that the petitioner is not a necessary party, there is no question of addition of present petitioner arises. Accordingly, this writ application is dismissed.

**(Mungeshwar Sahoo, J)**

Sanjeev/-

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