

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.9156 of 2014

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Gauray Kumar adopted son of Late Manoj Kumar Jaiswal and (natural son of Pawan Kumar Chhapaulia) Resident of village - Narainpur, P.O. and P.S. Ramnagar, District - West Champaran.

.... .... Petitioner/s

Versus

1. Chintamani Tiwari son of Late Lalkishun Tiwari.
2. Manju Devi wife of Late Manoj Kumar
3. Anirudh Prasad son of Chhedi Sah
4. Sk. Majir son of Safique Khan
5. Sanjay Prasad son of Anirudh Sah
6. Ramdeo Yadav son of Telman Yadav
7. Kashi Prasad son of Pitarimal
8. Ramawtar Prasad son of Gopali Tibrewal
9. Ramesh Kumar Tibrewal son of Kashi Prasad
10. Arbind Kumar Bhawsinkha son of Shri Ram Bhawsinkha
11. Sitaram Kumar son of Ramesh Kumar
12. Ayodhya Prasad son of Ramesh Kumar Tibrewal
13. Bimla Devi wife of Late Bishwanath Prasad Agrawal
14. Gopal Prasad Agrawal
15. Lalit Kumar Agrawal Both son of Bishwanath Pd. Agrawal
16. Durgawati Devi daughter of Late Bishwanath Pd. Agrawal
17. Pawan Kumar Chhapaulia son of Shri Madan Lal Chapaulia
18. Pramod Kumar Jaiswal son of Dhruv Sah
19. Ashok Kumar son of Bijay Jhunhunwala.
20. Bharilal Jhunhunwala son of Shri Shantilal Jhunhunwala son of Shri Shantilal Jhunhunwala
21. Dinanath Prasad son of Anirudh Sah
22. Rajesh Sharma son of Ramawtar Sharma
23. Shrimati Maya Devi Chhapaulia wife of Rajkumar Chhapaulia
24. Pradeep Sharma son of Purushotam Sharma
25. Pannalal Prasad son of Shri Raghunath Sah
26. Sahdeo Prasad Gupta son of Narsingh Sah

27. Rajendra Sah son of Khublal Sah  
28. Hazara Khatoon son of Md. Amiruddin  
29. Gharbharan Sah son of Laxmi Sah  
30. Mohammad Samsul son of Md. Jan Mian  
31. Mohammad Abdullah son of Md. Sabban  
32. Mokhtar Ahmad son of Noor Mohammad  
33. Tilakdhari Sah son of Mangal Sah  
34. Gopal Sah son of Dwarika Sah  
35. Hoda Mia son of Manager Sah  
36. Dipak Tiberwal son of Mohan Lal Tiberwal  
37. Sanjay Pandey son of Anirudh Pandey  
38. Hafij Sher Mohammad son of Hafij Amin  
39. Ataul Master son of Habib Mian All resident of village - Narainpur P.O. and P.S. Ramnagar, District - West Champaran.  
40. The State of Bihar through the Collector At , P.O. and P.S. Bettiah, District - West Champaran.  
41. Collector West Champaran At, P.O. and P.S. Bettiah, District - West Champaran.  
42. Anchal Adhikari Ramnagar, P.O. + P.S. Ramnagar, District - West Champaran.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Anand Kishore Choudhary, Adv.

For the Respondent/s : Mr. Gautam Bose, Adv.

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**

**ORAL JUDGMENT**

**Date: 03-05-2016**

Heard Mr. Baxi, learned senior counsel for the petitioner.

Calling in question the legal acceptability of the impugned order refusing the prayer of the petitioner to be impleaded as co-plaintiff in the suit, the present application under Article 227 of the Constitution of India has been filed.

The necessitous facts in the present context are that a suit was filed by a number of persons as plaintiffs including one Pramod Kumar against the State of Bihar. The said Pramod Kumar had a brother namely Manoj Kumar.

The learned senior counsel has submitted that the said Manoj Kumar was not one of the plaintiffs of the said suit as his shop was not the subject matter of the said suit. Manoj Kumar died leaving behind his widow. The present petitioner claims to be the adopted son of Manoj Kumar and on that basis has claimed to be entitled to the properties left behind by Manoj Kumar. The petition was filed by the present petitioner to be impleaded as co-plaintiff in the suit firstly on the ground that his adoptive mother (widow of Manoj Kumar) had been impleaded as plaintiff in the suit and secondly the property belonging to Manoj Kumar had been incorporated in the said suit as suit property. The learned court below has rejected the prayer of the petitioner and dismissed the petition.

Mr. Baxi, learned senior counsel for the petitioner has submitted that as the adoptive mother (widow of late Manoj Kumar) of the present petitioner has been added as one of the plaintiffs in the said suit, the present petitioner being the adoptive son of Manoj Kumar is equally entitled to be impleaded as co-plaintiff in the suit. It has been submitted that in view of the status of the petitioner being

the adopted son of Manoj Kumar he has the apprehension that his adoptive mother (widow of Manoj Kumar) may do some mischief with regard to the property detrimental to the interest of the present petitioner and therefore on that basis also he ought to have been impleaded as co-plaintiff in the suit.

After considering the submissions and the perusal of the materials on record, it is limpid that the title suit in which the present petitioner has sought to be impleaded as co-plaintiff has been filed claiming the relief only against the State of Bihar and its officials as defendants. The prayer relating to impleadment as co-plaintiff in the suit is governed by the provision of Order 1 Rule 10 (1) C.P.C. and this Court is not satisfied that the petitioner in any manner qualifies to become a co-plaintiff in accordance with the said provision. The submission that as the adoptive mother of the petitioner has already been made co-plaintiff in the suit and therefore the present petitioner is also entitled to be made a co-plaintiff is clearly misconceived as the interest of the adoptive mother of the petitioner is entirely separate and distinct from the interest or claim by this petitioner as an heir of the deceased Manoj Kumar. The submission that some mischief may be done by the adoptive mother of the petitioner and on that basis also he should have been joined as co-plaintiff is also devoid of merit because the right to be impleaded as co-plaintiff cannot be based

upon hypothetical ground. This Court, therefore, does not find that any illegality or irregularity has been committed by the learned court below in passing the impugned order requiring interference in the impugned order.

The present application is, accordingly, dismissed.

Devendra/-

(V. Nath, J)

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