

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2527 of 2014

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1. Manoj Kumar Mehta S/O Mukhlal Mehta Resident Of Village- Pokharahi, P.S- Barun, District- Aurangabad (Bihar)
 2. Rajdeo Mehta S/O Late Mathura Mehta Resident Of Village- Pokharahi, P.S- Barun, District- Aurangabad (Bihar)
 3. Parikha Yadav S/O Ram Dash Yadav Resident Of Village- Pokharahi, P.S- Barun, District- Aurangabad (Bihar)
 4. Laxuman Singh S/ Late Kedar Singh Resident Of Village- Pokharahi, P.S- Barun, District- Aurangabad (Bihar)
 5. Satendra Chaubey S/O Late Chandradeep Choubey Resident Of Village- Pokharahi, P.S- Barun, District- Aurangabad (Bihar)

.... Petitioner/s

Versus

1. The State Of Bihar Through The Collector, Aurangabar (Bihar)
2. The L.R.D.C., Aurangabad, P.S AND District- Aurangabad (Bihar)
3. The Anchal Adhikari, Barun, P.S- Barun, District- Aurangabad (Bihar)
4. Chatan Pal S/O Late Baijnath Gareri Resident Of Village- Pokhrahi, P.S- Barun, District- Aurangabad (Bihar)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Sinha
For the Respondent/s : Mr. S.S. Shabbar Hussain

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

4 28-01-2016

Heard learned counsel, Mr. K.K. Singh, appearing for the petitioners as well as Mr. Amit Kumar Anand, A.C. to G.P.-15 appearing on behalf of the State-respondent.

This application, under Article 227 of the Constitution of India, has been filed by the intervenors-petitioners for setting aside the order dated 19.06.2013 passed by the Sub-



Judge, III, Aurangabad in Title Suit No. 111 of 2012, whereby the court below rejected the application filed by these petitioners under Order 1 Rule 10 C.P.C. for being added as party in the title suit.

It appears that the plaintiff-respondent No. 4, Chathan Pal, file Title Suit No. 111 of 2012 against the State and State authorities praying for declaration of title over the suit land and that the defendants i.e. State authorities have no right to demolish the house of the plaintiff over the suit land.

The present petitioners filed an application for being added as party. After hearing the parties, the court below, by the impugned order, rejected the application on the ground that the plaintiff has neither prayed for any relief against these petitioners nor the petitioners are claiming any title over the suit property.

The only point raised by the learned counsel for the petitioners is that at the instance of the petitioners, encroachment proceeding was initiated and that, in fact, the property in suit is a public land and the State of Bihar is in collusion of the plaintiff, therefore, they are not taking any interest in contesting the case. There is a Pokhar in the suit land and the petitioners are using the same since long.



It appears that the State has also filed counter affidavit. The learned counsel for the State submitted that, in fact, the State is contesting the suit and it is the specific case of the State that the suit property is the public property.

Perused the order passed by the court below. It is admitted fact that the petitioners are not claiming any title over the suit property. The plaintiff has filed the suit for declaration of his title. The State authorities are controverting the case of the plaintiff. The nature of claim made by the interevenors-petitioners is that the suit land is in use of public at general. So far this case of the intervenors is concerned, it may be mentioned here that in the relief, the plaintiff has prayed for declaration of right and for declaration that the State authorities have no right to demolish his house. Now, therefore, the controversy between the parties is with respect to the encroachment and demolition by the State authorities of the house of the petitioners. Whether it is in possession of the petitioners or it is the private property of any other person is not involved and, therefore, it cannot be said that in absence of these petitioners, the controversy between the original parties cannot be effectively decided by the court below or for deciding the controversy, the presence of these petitioners are not

necessary.

In view of the above facts and circumstances of the case, the order passed by the court below needs no interference under Article 227 of the Constitution of India. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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