

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11409 of 2014

- =====
1. Neelam Choudhary, wife of Late Umesh Chand Choudhary
 2. Kumar Ravi
 3. Kumar Rishi
 4. Kumar Chandan
 5. Kumar Raj Kapoor, All sons of Late Umesh Chand Choduhary, resident of mohalla- Anathalya Road, Katihar, P.S.- Katihar, District- Katihar.

.... Petitioner/s

Versus

1. Sanjay Kumar Choudhary
2. Shankar Kumar Choudhary
3. Sanjeeb Kumar Choudhary
4. Ajay Kumar Choudhary, Sons of Late Satish Chand Choudhary
5. Nutan Devi, wife of Late Jyotish Chand Choudhary
6. Sanjeeb Kumar Choudhary
7. Dilip Kumar Choudhary Sons of Late Jyotish Chand Choudhary
8. Reena Choudhary
9. Renu Choudhary
10. Babli Choudhary Daughters of Late Jyotish Chand Choudhary, residents of mohalla Gandhi Nagar, Katihar, P.S.- Katihar, District- Katihar
11. Madan Lal Choudhary, son of Late Mahendra Narayan Choudhary
12. Sheela Choudhary, wife of Late Jagdish Chand Choudhary
13. Jayant Kumar Choudhary
14. Jai Kumar Choudhary,
15. Jaswant Kumar Choudhary sons of Late Jagdish Chand Choudhary, residents of New Market Katihar, P.S. Katihar, District- Patna
16. Sharda Devi, wife of Late Anand Kishore Choudhary
17. Arbind Kumar Choudhary
18. Arun Kumar Choudhary, Sons of Late Anand Kishore Choudhary Resident of village- Jotramroy Via Gurubazar, P.S. Barari, District- Katihar
19. Ramesh Kumar Choudhary, son of Late Prithwi Chand Choudhary, Residents of village- Jotramroy Via- Guru Bazar, P.S. Barari, District- Katihar
20. Ranjeet Kumar Choudhary, son of Late Rajendra Prasad Choudhary, resident of mohalla- Gandhi Nagar, Katihar, P.s. AND District- Katihar

21. Ajit Kumar Choudhary

22. Indrajeet Kumar Choudhary Sons of Late Rajendra Prasad Choudhary

23. Bijendra Prasad Choudhary

24. Jitendra Prasad Choudhary Sons of Late Sant Sharan Prasad Choudhary

Residents of village Kundi Ghat, P.O.- Jotramroy Via Guru Bazar, P.S.- Barari,

District- Katihar

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Amit Bhushan, Adv.

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 04-08-2016

Heard Mr. J.S. Arora, learned counsel appearing on behalf of the petitioners.

The petitioners are the plaintiffs in the suit and have filed this application under Article 227 of the Constitution of India assailing the order dated 05.06.2014 by which the learned court below has turned down the prayer of the petitioners for adding 47 persons as defendants in the suit.

Mr. Arora, learned counsel for the petitioners has submitted that the defendant no. 12 Shila Chaudhary in the suit is now dead and the plaintiffs will have to take steps for substitution of her heirs and legal representatives in the suit. In this backdrop, it has been submitted that the plaintiff-petitioners be given liberty to raise the point of impleadment of 47 persons as parties again after allowing the prayer on behalf of the present petitioners to withdraw this



application. It has been pointed out that the plaintiff-petitioners are only the purchasers of the suit land and they are not supposed to know the details of the family of the defendants. Learned counsel for the petitioners has lastly reiterated the prayer to withdraw this application with liberty to the petitioners to make the prayer in the suit itself for impleading left out persons as parties in view of the changed circumstances.

After considering the submissions and the materials on record, it is evident from the impugned order that the argument in the suit on behalf of the defendants is over and at that stage the plaintiff-petitioners has filed the petition for impleading 47 persons as defendants. It has also been noticed in the impugned order that the written statement on behalf of the defendants was filed in the suit on 10.06.2006 wherein the defendants had already raised objection with regard to the defect of the parties. It has further been noticed that the plaintiff-petitioners made a prayer for amendment of the plaint on 16.11.2013 in the same context and the said prayer was rejected on 12.02.2014. The learned court below has concluded that as the plaintiff-petitioners has not taken prompt steps for impleadment of the proposed 47 persons as party defendants in the suit, the present petition filed at the final stage of the suit, is not bonafide. In this backdrop, the learned court below has turned down the plaintiff-

petitioners' prayer for impleading those persons as parties.

In this backdrop, this Court is not inclined to allow the prayer for withdrawing this application as made by the learned counsel for the petitioners with liberty to the petitioners to raise the same issue again on the basis of the plea that in view of the death of the defendant no. 12 Shila Choudhary the stage of the suit has changed when it is manifest from the present application itself that the three sons of Shila Choudhary are already parties in the suit as well as in this application.

This application is, accordingly, dismissed.

The plaintiff-petitioners, however, shall be at liberty to raise the objections, if such occasion arises, under Section 105 C.P.C in accordance with law.

(V. Nath, J)

Devendra/-

U			
---	--	--	--