

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8733 of 2014

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Ramchandra Prasad Sahi, Son of late Sadhu Saran Sahi, resident of village-
Bishunpur, P.O.- Bishunpur Begusari, P.S.- Nagar, District- Begusarai

.... Petitioner/s

Versus

1. Arvind Kumar Singh, Son of late Braj Kishore Pd. Singh, resident of
Janki Niwas, Kachahari Road, P.S.- Begusarai, District- Begusarai
2. Suresh Das, son of late Sakhi Chand Das, resident of village- Bagha,
P.O.- Suhird Nagar, P.S.- Begusarai Town, District- Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

3 07-04-2016

Heard the learned counsel for the petitioner.

By the impugned order, the learned court below has rejected the prayer of the petitioner made under Order 1 Rule 10 (2) C.P.C. for his impleadment as intervener-defendant in the suit for eviction filed by the respondent no. 1 against the respondent no. 2.

The facts are not in dispute that the eviction suit has been filed by the respondent no. 1 Arvind Kumar Singh against the respondent no. 2 Suresh Das asserting that there has been relationship of landlord and tenant in between the plaintiff and the defendant of that suit and seeking eviction of the said defendant under the provisions of the Bihar Buildings (Lease, Rent and



Eviction) Control Act. The present petitioner filed the petition with assertion that the suit premises did not belong to the plaintiff-respondent no. 1 rather it belonged to A.P.S. Trust and the petitioner was the secretary of the said trust. It was stated in the said petition that the petitioner intended to protect the trust property from encroachment by unscrupulous persons like the plaintiff-respondent no. 1. In the said petition, the reference to several earlier orders as well as the documents were made to show that the suit premises was the trust property and the petitioner was the secretary of the said trust. By the impugned order, the learned court below, after taking into notice the submissions and the materials produced on behalf of the petitioner, has turned down his prayer for addition as intervener-defendant in the eviction suit.

The learned counsel for the petitioner has strenuously submitted that the suit premises belongs to the A.P.S. Trust and the suit for eviction filed by the respondent no. 1 against the respondent no. 2 is clearly baseless and filed with malafide reason to grab the property of the trust. It has been canvassed that the defendant-respondent no. 2, in his written statement, has also clearly and categorically stated that there is no relationship of landlord and tenant in between the plaintiff and the defendant and the suit property, in fact, belongs to the A.P.S. Trust to whom the



rent has been paid by the defendant-respondent no. 2. It has also been argued by the learned counsel that the interest of justice also demands that the petitioner be not driven to file another suit as the dispute can be effectively determined in the present suit itself. The learned counsel has placed, in detail, the written statement filed by the defendant-respondent no. 2 as annexed with this application and the other documents in support of the assertion that the suit property is the trust property and the petitioner is the secretary of the said trust.

After perusal of the impugned order and consideration of the submissions, it is manifest that the suit has been filed for eviction by the respondent no. 1 against the respondent no. 2. In such a suit the material question is the relationship of landlord and tenant in between the plaintiff and the defendant as held by the Apex Court in the case of **Rajendra Tiwary Vs. Basudeo Prasad, A.I.R. 2002 SC 136** and the issue of title over the suit property has been held to be alien to the nature and scope of the suit. In this backdrop, if the prayer of the petitioner to be impleaded as intervener-defendant is allowed, the nature of the eviction suit will definitely change. This view has been taken by a Bench of this Court earlier in the case of **Nagendra Pd. Singh Vs. Mohammad Salim, 1996 (1) P.L.J.R.**

894. Even in view of the dictum as laid down by their lordship in the case of **Mumbai International Airport Pvt. Ltd. Vs. Regency Convention Centre, 2010 (7) SCC 417** an intervener cannot be allowed to change the nature and scope of a suit by spousing his own independent cause of action. Considering this issue from another angle also, it is clear that the petitioner is not remediless even if a decree for eviction is obtained by the respondent no. 1 against the respondent no. 2.

In this view of the matter, this Court does not find that the learned court below has committed error of jurisdiction or illegality in passing the impugned order. The application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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