

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9484 of 2014

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Baldeo Prasad Yadav S/o Late Gopi Gope Resident of Mohalla Khajekalan, P.S. Khajekalan, Patna City, Town and District Patna.

.... Petitioner/s

Versus

1. Anil Kumar Singh S/o Late Hari Nandan Singh Resident of Mohalla Danapur Cantt. Military Road, P.S. Danapur, District Patna at present Lallu Sardar, Mohalla Nuruddinganj, P.S. Malsalami, District Patna.
2. Sri Arjun Rai S/o Sri Baldeo Rai Resident of Holding No. 106/102, Mohalla Khajelankan, P.S. Khajekalan, Patna City, Town and District Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Laxmi Narayan Das, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 09-05-2016

Heard Mr. Das, learned counsel for the petitioner.

Calling in question the legal sustainability of the impugned order by which the prayer of the present petitioner to be impleaded as party defendant in a suit for eviction has been rejected, the present application under Article 227 of the Constitution of India has been filed.

Mr. Das, learned counsel for the petitioner has submitted that the suit property subject matter of the eviction suit belongs to the joint family of the present petitioner as well as his brother who has wrongly transferred the said property in favour of the plaintiff by



executing a registered sale deed. It has been further submitted that even the defendants in the suit for eviction are the sons and daughters of the present petitioner. In this background, learned counsel has contended that the presence of the petitioner is required in the suit to establish that the plaintiff is not the title holder of the suit property, particularly, in view of the fact that the suit has been filed for eviction on the ground of personal necessity alone. It has also been canvassed that the learned court below has committed illegality in rejecting the prayer of the petitioner for his impleadment as party defendant in the eviction suit.

After considering the submissions and the materials on record, it is manifest that the suit has been filed for eviction of the defendants from the suit premises by the plaintiff. It has been the accepted position that the brother of the present petitioner has executed a sale deed in favour of the plaintiff and it has also been further accepted the said sale deed in favour of the plaintiff has still not been challenged before any competent court. The contention on behalf of the petitioner that in the suit for eviction on the ground of personal necessity, the plaintiff is required to establish his title over the suit property and therefore the presence of the present petitioner before the court would be necessary to assist the court in reaching to the proper conclusion is against the settled principles in this regard.

The concept of ownership in a suit for eviction is entirely different from the concept of the ownership in general law. Moreover, a stranger disputing the title of the plaintiff over the suit property cannot be added as a party in an eviction suit for the purpose of adjudication of the rival claim of title over the suit property. In an eviction suit, the issue of title is considered only incidentally and for the purpose of finding out the relationship of landlord and tenant between the plaintiff and the defendants. The stand and stance taken by the petitioner as the basis for his impleadment as party is on the basis of his own title over the suit premises but the same also cannot be established unless and until the sale deed admittedly executed in favour of the plaintiff by admitted co-owner for the suit premises is annulled. This Court, therefore, comes to the conclusion that the petitioner is neither a necessary nor a proper party in the suit for eviction and his prayer has rightly been rejected by the learned court below.

The present application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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