

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2316 of 2016

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Kaifa Khatoon

.... Petitioner/s

Versus

Sri Naresh Kumar Sah & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anamul Haque

For the Respondent/s : Mr. Sc28- Ajeet Kumar

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 30-03-2016 **1.** Heard the learned counsel, Mr. Abdul Mannan, for the
petitioner and the learned A.C. to S.C.28 for the respondent State.

2. It appears that the plaintiff respondent filed suit for
declaration of title on the basis of sale deed and for correction of
the entry in the record of right wrongly recorded in the name of
State of Bihar. In the said suit, the intervener filed intervention
application for being added as party on the ground that prior to
selling the property by the vendor to the plaintiff, an agreement
was executed by the vendor in favour of the intervener to sell the
property. Therefore, he has filed the application for being added
as party. The Court below rejected the said application.

3. According to the learned counsel, Mr. Mannan, if the
order is allowed to stand, it will prejudice the petitioner and the

right of the petitioner will be affected.

4. Perused the order passed by the Court below. From perusal of the impugned order, it appears that the case of the intervener is that the agreement was executed in favour of the intervener in the year 2003. However, admittedly till date, no suit for specific performance has been filed. Therefore, the issue to be decided in the suit filed by the plaintiff is whether the plaintiff acquired title to the suit property on the basis of registered sale deed and whether the entry in the record of right in the name of State of Bihar is liable to be corrected or not and for deciding this issue, the presence of the present intervener is not at all required.

5. The Hon'ble Supreme Court in the case of *Mumbai International Airport vs. Regency Convention Centre and Hotel Pvt. Ltd.* 2010 (7) S.C.C. 417, held that **the fact that a person is likely to secure a right / interest in a suit property after the suit is decided against the plaintiff, will not make such person a necessary party or a property party.'** The Hon'ble Supreme Court as also held that **'a necessary party is a person who ought to have joined as a party and in whose absence, no effective decree could be passed at all by the Court.'**

6. In the present case as stated above in absence of the

petitioner, the Court can decide the suit effectively and pass the decree effectively and, therefore, the petitioner intervener is not a necessary party at all.

7. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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