

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.11338 of 2014**

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Satish Chandra Mishra son of Late Ranjeet Narayan Singh R/O Village -  
Hariharpur Kanar, P.S. Khaira, District - Saran At present R/o Mohalla - Salempur,  
P.S. Chapra Town, Distt. – Saran.

.... .... Petitioner/s

Versus

1. Uday Shankar Mishra son of Late Nirmal Kumar Mishra
2. Most. Shayama Devi daughter of Late Nirmal Kumar Mishra
3. Most. Urmila Devi wife of Late Nirmal Kumar Mishra
4. Most. Sunita Devi Wife of Late Omkar Nath Mishra
5. Amrita Devi daughter of Late Omkar Nath Mishra
6. Annu Kumari daughter of Late Omkar Nath Mishra All R/o Mohalla -  
Salempur, P.S. Chapra Town, Distt. - Saran
7. Birendra Kumar Mishra son of Late Bipin Bihari Mishra R/o Village -  
Hariharpur Kanar, P.S. Khaira, District - Saran
8. Smt. Chanchala Devi wife of Sri Ram Narayan Mishra R/o Village - Shakti  
Nagar Tari, P.O. + P.S. Chapra Muffasil, Distt. - Saran
9. Sri Abhay Kumar Mishra son of Sri Uma Shankar Prasad Mishra R/o Shiv  
Durga Niwas, Hemnagar Colony, Sadha, P.O. + P.S. Chapra Muffasil, District -  
Saran At Present Daftari, Civil Court Darbhanga, P.O. + P.S. + District –  
Darbhanga.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Binod Murari Mishra, Adv.  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**

**ORAL JUDGMENT**

**Date: 28-07-2016**

Heard learned counsel for the petitioner.

The legal acceptability of the impugned order by which  
the learned court below has allowed the prayer of the respondent nos.

8 and 9 to be impleaded as party defendants in the suit has been questioned in this application under Article 227 of the Constitution of India.

The suit has been filed for partition and from the plaint (Annexure-1), it transpires that one Ranjeet Narayan Mishra has been shown to have three sons out of whom the petitioner is one of them. Learned counsel for the petitioner has stated that the property subject matter of partition belongs to Ranjeet Narayan Mishra. The petition was filed by the respondent nos. 8 and 9 claiming themselves to be the daughter and daughter's son of Ranjeet Narayan Mishra and on that basis they have asserted that they are necessary parties to the suit as they have got interest in the property left behind by the deceased Ranjeet Narayan Mishra. The learned court below has allowed the prayer of the respondent nos. 8 and 9 and directed them to be impleaded as intervenor-defendants in the suit.

Learned counsel for the petitioner has submitted that it is the specific case of the petitioner that Ranjeet Narayan Mishra had only three sons and no daughters. It has been further canvassed that the defendants in the suit have filed their written statement and there is no such case that Ranjeet Narayan Mishra died leaving behind two daughters. It has, therefore, contended that the learned court below has committed error in law in allowing the prayer of the respondent

nos. 8 and 9 to be impleaded as party defendants in the suit.

After considering the submissions and perusal of the materials on record as well as the impugned order, it is manifest that the suit has been filed by the plaintiff-petitioner for partition of the property belonging to Late Ranjeet Narayan Mishra. The respondent nos. 8 and 9 have come out with the case that they are also the descendent of Ranjeet Narayan Mishra. It is not in dispute that if the assertion of the respondent nos. 8 and 9 that they are also the descendents of Ranjeet Narayan Mishra is true, they would be necessary parties to the suit. In this view of the matter, when the said issue is still to be determined then the learned court below has committed no error in law in allowing the prayer of the respondent nos. 8 and 9 to be impleaded as party. During the course of submission, the learned counsel for the petitioner has accepted that there is no bar for the respondent nos. 8 and 9 to maintain their own suit. This Court, therefore, is not inclined to interfere in the impugned order invoking the jurisdiction under Article 227 of the Constitution of India.

The application is, accordingly, dismissed.

However, the learned court below is directed to expedite the hearing of the suit as the same is pending since 2008.

Devendra/-

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**(V. Nath, J)**