

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11856 of 2014

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Nurul Hoda S/o Sheikh Subham resident of vill- Sawnahipatti, P.O.- Bathua
Bazar, P.S.- Phoolwaria, Dist- Gopalganj

.... Petitioner/s

Versus

1. Amir Alam.
2. Dabir Alam All are sons of Nazir Ahmad resident of vill- Sawnahipatti,
P.O.- Bathua Bazar, Dist- Gopalganj.
3. Abdul Zabbar son of Abdul Rahman.
4. Kausar Alam son of Abdul Rahman.
5. Maula Sharif son of Abdul Rahman.
6. Mumtaz daughter of Abdul Rahman All are the resident of village-
Diwan Parsa, P.S.- Phulwaria, Dist- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.

Mr. Dhananjay Kumar Upadhyay, Adv.

For the Respondent/s : Mr. Lokesh Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

2 31-03-2016 Heard the learned counsel for the petitioner and the

learned counsel for the respondent nos. 1 and 2 in the

interlocutory application (I.A. No. 2391 of 2016) as well as on

the merits of the application under Article 227 of the Constitution

of India.

By the impugned order under assail in this

application under Article 227 of the Constitution of India, the

learned court below has allowed the prayer of the respondent nos.

1 and 2 to be impleaded as party respondents in the suit. The learned counsel for the petitioner has submitted that the respondent nos. 1 and 2 has filed a petition claiming their interest from Bibi Sahzadi who was earlier party in the suit on the basis of a sale deed as well as a will. It has, however, been canvassed that the said will was not probated and therefore no right on the said basis can be claimed by the respondents.

The learned counsel for the respondents has supported the impugned order.

After considering the submissions and the perusal of the impugned order, it is manifest that the learned court below after considering the facts and circumstances of the case has exercised its discretion under Order 1 Rule 10 (2) for impleading the respondent nos. 1 and 2 as party defendants in the suit. The fact, however, remains that the right of the respondent nos. 1 and 2 over the suit property has been challenged by the petitioner on various grounds. This Court, however, has not been persuaded to go into the legality and validity of the rights claimed by the respondent nos. 1 and 2 which shall be decided and determined in the suit itself.

The present application is, accordingly, disposed of with observation that the petitioner shall have the liberty to

challenge the rights claimed by the respondent nos. 1 and 2 on all grounds available to him in accordance with law.

(V. Nath, J)

Devendra/-

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