

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1371 of 2016**

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Rajesh Yadav

.... Appellant/s

Versus

Varun Kumar Judge Mahta @ Varun Kumar Lal Mahta & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ray Saurabh Nath

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO**

ORAL ORDER

2 16-12-2016 Heard learned counsel Mr. Ray Saurabh Nath for the
petitioner.

Perused the impugned order dated 12.08.2016 passed
by Civil Judge (Senior Division)-X, Gaya in Title Suit No.47 of
2007/283 of 2007/188 of 2015 whereby the learned court below
rejected the application filed by this petitioner under Order I Rule
10(2) of the Code of Civil Procedure for being added as party in
the title suit.

It appears that the aforesaid title suit was filed claiming
the relief for declaration that the sale deed in question is illegal,
void and not binding on the plaintiff. The defendant no.1 has not
acquired any right, title and interest in the suit property.

Now, therefore, since this dispute between the plaintiff
and defendant no.1 i.e. executant of the sale deed and the vendee
of the sale deed the presence of outsider is not at all necessary for



deciding as to whether the sale deed is void or not.

The Hon'ble Supreme Court in the case of **Mumbai International Airport Private Limited Vs. Regency Convention Centre and Hotels Private Limited and others, reported in (2010) 7 Supreme Court Cases 417** has held that a 'necessary party' is a person, who ought to have been jointed as a party and in whose absence no effective decree could be passed at all by the court. 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 proper party.

In the present case, according to the present petitioner and the pleading of the plaintiff, an agreement of sale has been executed by the plaintiff in favour of the petitioner in the year 2007. It is admitted fact that still today i.e. after expiry of even nine years neither the sale deed has been executed in favour of the petitioner nor a suit for specific performance of contract has been filed by the petitioner. Therefore, merely because an agreement has been executed by the plaintiff with respect to the suit property in favour of the petitioner, his presence is not necessary for deciding as to whether the sale deed in question executed by the plaintiff in favour of defendant no.1 is binding on the plaintiff or



not or that the sale deed is void or not.

Therefore, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction.

Accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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