

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.49 of 2016

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Birendra Sharma

.... Appellant/s

Versus

Anil Kumar Sharma & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajendra Prasad

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 01-08-2016

Heard learned counsel Mr. Amar Nath Singh for the
petitioner.

Perused the order dated 26.02.2016 passed by
Subordinate Judge-I, Jehanabad in Eviction Suit No.104 of 2013
whereby the court below rejected the application filed by the
petitioner under Order 1 Rule 10 CPC for adding the petitioner as
party.

It appears that the plaintiff-respondent no.1 filed
eviction suit against the defendants-respondents herein for their
eviction. The present petitioner filed the application for being
added as party in the eviction suit on the ground that in fact he is
the real owner of the suit property. The question of title is
involved between the petitioner and respondent no.1 in previously
instituted suit which is now pending before the High Court in
Second Appeal No.375 of 2013.

From perusal of the impugned order, it appears that the court below held that the question of title is involved in Second Appeal No.375 of 2013. The present petitioner is not claiming to be the tenant nor he is claiming to be the landlord nor he has filed eviction suit. In fact the earlier suit filed by plaintiff-respondent no.1 for declaration of title with respect to the suit premises has already been decreed in favour of plaintiff-respondent no.1 and against that judgment and decree the present petitioner has filed title appeal, which was dismissed and against that second appeal is pending before the High Court. Therefore, the question to be decided in eviction suit is whether there is relationship of landlord and tenant between plaintiff-respondent no.1 with defendants-respondents or not and whether any ground mentioned in Section 11 of the B.B.C. Act is made out or not. For deciding this dispute the presence of the present petitioner who is claiming title is not at all required.

Therefore, in my opinion, in this eviction suit, the petitioner is not a necessary party. Thus, the court below has rightly rejected the application. Accordingly, this civil miscellaneous application is dismissed.

Harish/-

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(Mungeshwar Sahoo, J)