

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2135 of 2014

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Md. Nizamuddin @ Md. Nizam

.... Petitioner/s

Versus

Bibi Gulshan Ara Khatoon & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Neeraj Kumar Alias Sanidh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 08-01-2016 1. Heard the learned counsel, Mr. Baidnath Thakur, for the
petitioner.

2. The learned Court below by order dated 02.05.2013
added the intervener as petitioner in Misc. Case No.19 of 2007/ 01
of 2007.

3. It appears that the plaintiff petitioner filed title suit
No.175 of 1994 / 31 of 1995. The said suit was decreed in the
year 1996 against defendants. Thereafter, defendants sold the
property to one Gulshan Ara Khatoon who filed the application
under Order 9 Rule 13 CPC. Subsequently, she also sold the
property to the present intervener who filed the application for
being added as petitioner on the ground that he has purchased
property subject matter involved in the suit. The learned Court

below has allowed this application.

4. The learned counsel for the petitioner submitted that the defendant Ist party had no authority to transfer the property to Gulshan Ara Khatoon, therefore, the application filed under Order 9 Rule 13 by her was not maintainable. Likewise since Gulshan Ara had not acquired any title, she could not have sold the property to the present intervener and, therefore, the present intervener could not have been added as party petitioner in the application under Order 9 Rule 13 CPC for setting aside the Judgment and Decree which was passed in favour of the petitioner in the year 1996.

5. So far the submission of the learned counsels is concerned, it is the matter relating to title of the party whether the petitioner acquired title or not. So far the maintainability of the application under Order 9 Rule 13 CPC is concerned, at the instance of the intervener is a matter to be decided finally by the Court below.

6. BY the impugned order the Court below has allowed the intervention application finding that in fact he is a purchaser from the petitioner Gulshan Ara Khatoon. Therefore, by the impugned order neither any prejudice has been caused to the petitioner nor it

has occasioned failure of justice nor the Court below has acted in the manner not permitted by law. All the matters which are being raised by the petitioner that will be a ground which may be decided finally, if pressed by the petitioner. Therefore, the impugned order cannot be interfered with in supervisory jurisdiction under Article 227 of the Constitution of India. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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