

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8786 of 2014

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1. Mosadi Lal Rai son of Sita Ram Singh resident of village - Jamuan, P.S. Bihiya, District - Bhojpur at present resident of village - Bhadwar, P.S. Koilwar, District - Bhojpur

.... Petitioner/s

Versus

1. Satyendra Singh Yadav minor son of Sita Ram Singh Yadav deceased, under the guardianship of Jai Ram Yadav cousin brother son of Ram Prasad Yadav
2. Jai Ram Yadav son of Ram Prasad Yadav Both residents of village P.S. Arrah Nawada, District - Bhojpur
3. Surendra Singh Yadav son of Sita Ram Singh Yadav
4. Morabia Devi wife of Sita Ram Singh Yadav
5. Sukan Singh Yadav son of Late Radha Singh Yadav
6. Kanhaiya Singh Yadav @ Brij Bihari Singh Yadav son of Sukan Singh Yadav
7. Sanchiraya Devi wife of Sukan Singh Yadav
8. Lakchhuman Singh Yadav son of Late Radha Singh Yadav
9. Ambika Singh Yadav son of Lakchhuman Singh Yadav
10. Mangaru Singh Yadav son of Lakchhuman Singh Yadav
11. Ful Kumari Devi wife of Lakchhuman Singh Yadav
12. Ram Sahal Singh Yadav
13. Malik Singh Yadav
14. Hira Lall Singh
15. Maharaj Singh Yadav
16. Mahendra Singh Yadav all sons of Triloki Singh Yadav resident of village All residents of village - Jamua, P.O. and P.S. Behea, District - Bhojpur
17. Ram Kawal Sah @ Luti Sah son of Bharduli Sah resident of village - Jamua, P.O. and P.S. Behea, District - Bhojpur
18. Bhagwan Singh
19. Mahendra Singh both sons of Chhabi Nath Singh Both residents of village - Araila, P.O. Manu Dehri, P.S. Jagdishpur, District - Bhojpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramadhar Singh, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

2 11-04-2016

Heard Mr. Ramadhar Singh, learned counsel appearing on behalf of the petitioner.

2. The petitioner has challenged the impugned order in this application to the extent by which his prayer for impleadment in the suit as a party under Order 1 Rule 10(2) C.P.C has been turned down and the petition filed by him on 06.03.2013 has been dismissed. The facts are not in dispute that the suit for partition was filed in the year 1991. It has also not been disputed by the learned counsel appearing on behalf of the petitioner that this petitioner was examined as a witness on behalf of defendant no. 4 in the suit, in the year 2000 itself. The present petition under Order 1 Rule 10(2) C.P.C has been filed on behalf of the petitioner when the suit is at the stage of final disposal and the arguments on behalf of both the sides are nearing completion. The petitioner has claimed himself to be the son of the defendant no. 1 but the said fact has been disputed by the plaintiff and also the defendant no. 1.

3. During the course of submission Mr. Singh, learned counsel appearing on behalf of the petitioner has submitted that the petitioner should have been impleaded as a party in the suit

in order to avoid multiplicity of litigation and also keeping in view that it was a suit for partition. The fact however, has not been denied that the suit has reached to the stage of final disposal.

4. After considering the submissions and materials on record, it is evident that the petitioner had the knowledge of the suit in the year 2000 itself, when he appeared in the suit as a witness on behalf of the plaintiff. The petitioner did not file the petition soon thereafter and apparently waited for the stage when the suit has reached to the stage of final disposal. The learned court below therefore has rightly made observations against the conduct of the petitioner. Moreover it is also well settled that a person cannot be impleaded as a party in a suit to pursue his own cause of action, by exercising power under Order 1 Rule 10(2) C.P.C. The fact is also apparent that the status of the petitioner as a family member of the plaintiff-defendants is also in dispute. This court therefore, is not inclined to interdict the impugned order in jurisdiction under Article 227 of the Constitution of India.

5. The application is, accordingly, dismissed.

(V. Nath, J)

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