

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9646 of 2014

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1. Md. Azam Khan Son of Late Md. Sultan Khan
2. Md. Taslim Son of Abdul Aziz
3. Md. Khursid @ Md. Khurshid Son of Late Abdul Hamid
4. Md. Shahid Ansari Son of Late Elahi Bux
5. Md. Mushtaque Ansari S/o Abdul Subhan All residents of Village Mohammadpur, Pojha, P.S- Goraul, District- Vaishali.

.... Petitioners

Versus

1. The State of Bihar through Collector, Vaishali.
2. The Collector, Vaishali.
3. The Anchal Adhikari, Goraul, District- Vaishali.
4. Md. Ali Shah
5. Abdul Kalam Nos. 4 AND 5 sons of Kitabat Ali Khan
6. Nazir Shah
7. Md. Zahir Shah
8. Md. Sabir Shah
9. Md. Salim Shah Nos. 6-9 sons of Late Shafi Shah
10. Md. Izhar
11. Md. Manzoor
12. Md. Mansoor
13. Md. Gyasussin
14. Md. Siddique Nos. 10-14 sons of Late Md. Rahmat Ali
15. Md. Sulaiman Shah Son of Late Razaque Shah
16. Md. Kalim
17. Md. Halim Nos. 16 and 17 Sons of Late Abdul Munif
18. Abdul Hameed Shah Son of Late Ashraf Hussain Shah
19. Md. Ataullah
20. Md. Azimullah
21. Rahmatullah
22. Barkatullah
23. Amanullah Nos. 19-23 Son of Late Abdul Ghafoor No. 4 to 23 all residents of Village Mohammadpur Pujha, P.O- Babhan Toli, P.S- Goraul, District- Vaishali.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Syed Firoz Raza, Adv.
For the Respondent/s : Mr. R.R. K PANDEY

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 16-05-2016

V.Nath, J.

Heard Mr. Syed Firoz Raza, learned counsel

appearing on behalf of the petitioners.

The petitioners have questioned the legal sustainability of the impugned order by which the prayer for their impleadment as intervener-defendant in the suit has been turned down by the learned court below by the impugned order.

The suit has been filed by the plaintiffs for declaration of their title and confirmation of possession over the suit property against the State of Bihar. It appears that the cause of action for the suit has been said to have been arisen because the suit property has been recorded in the name of the State of Bihar in the recent survey khatian. The petitioners are the persons belonging to Muslim community and they filed the petition for their addition as party-defendant in the suit on the ground that the suit property was a kabristan land and a committee had been formed for upkeep and management of the said land. The learned court below has rejected the prayer of the petitioners firstly on the ground that the petitioners are neither necessary nor proper parties in the suit which has been filed only against the State of Bihar and secondly on the ground after taking into notice the plea of the petitioners that the suit property has been registered with the Bihar State Sunni Wakf Board and there was no prayer for impleading the Bihar State Sunni Wakf Board as party.

Mr. Raza, learned counsel appearing for the petitioners, at the outset, has submitted that according to his

instruction the Bihar State Sunni Wakf Board has now been impleaded as party in the suit. It has, however, been submitted by the learned counsel for the petitioners that in any view of the matter the petitioners being the member of the committee constituted for the management of the suit land which is a kabristan are necessary parties for protection of the interest of the community in the suit land.

After considering the submissions and perusal of the impugned order, it is manifest that the suit property has been registered with the Bihar State Sunni Wakf Board and the said Bihar State Sunni Wakf Board has now been impleaded as party defendant in the suit. In that view of the matter, the submission on behalf of the petitioners that they are also necessary parties for protection of the interest of the community in the suit property has got no substance. The learned court below has not committed any illegality or material irregularity in passing the impugned order for impleading as party.

The application is, accordingly, dismissed.

However, this order will not prejudice the petitioners from pursuing the remedy which may be available in accordance with law for protecting their interest if any in the suit property.

Nitesh/-

(V. Nath, J)

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