

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3028 of 2013

- =====
1. Randhir Kumar Singh S/O Late Ram Kishore Singh Resident Of Village - Jakhey Devipur, P.S. - Akbarpur, District - Nawadah
 2. Shiyama Nand Singh Son Of Late Nand Kishore Singh Resident Of Village - Jakhey Devipur, P.S. - Akbarpur, District - Nawadah
 3. Brahmanand Singh Son Of Late Nand Kishore Singh Resident Of Village - Jakhey Devipur, P.S. - Akbarpur, District - Nawadah
 4. Hiranand Singh Son Of Late Nand Kishore Singh Resident Of Village - Jakhey Devipur, P.S. - Akbarpur, District - Nawadah
 5. Deo Ranjan Singh Son Of Late Shrawan Kumar Singh Resident Of Village - Jakhey Devipur, P.S. - Akbarpur, District - Nawadah
 6. Dharmendra Singh Son Of Late Shrawan Kumar Singh Resident Of Village - Jakhey Devipur, P.S. - Akbarpur, District - Nawadah
 7. Jitendra Singh Son Of Late Shrawan Kumar Singh Resident Of Village - Jakhey Devipur, P.S. - Akbarpur, District - Nawadah

.... Petitioner/s

Versus

1. The State Of Bihar Through Collector-Cum-District Magistrate Nawada At Collecterate Building Nawada, P.S. - Nawadah, District - Nawadah
2. The Anchal Adhikari (C.O.), Akbarpur At Anchal Office Akbarpur, P.S. - Akbarpur, District - Nawadah
3. Bundi Ram S/O Late Budhan Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
4. Baleshwar Rajbansi S/O Late Dukhan Rajbansi Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
5. Karu Rajbansi S/O Late Sonal Rajbansi Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
6. Manganu Ram S/O Late Shyam Rajwar Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
7. Kirat Ram S/O Late Kisun Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
8. Eto Ram S/O Late Chotu Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
9. Baleshwar Ram S/O Late Laxman Rajbansi Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
10. Binod Rajbansi S/O Late Chandrika Rajbansi Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
11. Prabhu Ram S/O Late Mangar Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
12. Umesh Ram S/O Late Bhanu Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
13. Chhotu Ram S/O Late Fagu Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
14. Bando Ram S/O Late Fagu Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
15. Rajendra Ram S/O Late Fagu Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah
16. Sunita Devi D/O Munai Ram Resident Of Village - Jakho Devipur, P.S. -

Akbarpur, District - Nawadah

17. Raawatar Ram S/O Late Kisun Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

18. Sibban Ram S/O Late Chamari Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

19. Ram Pravesh Ram S/O Late Chamari Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

20. Musarif Ram S/O Late Kalo Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

21. Balbhadra Ram S/O Late Lakhan Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

22. Bijay Ram S/O Nanhaku Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

23. Kari Devi S/O Late Baleshwar Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

24. Sharwan Rajbansi S/O Baleshwar Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

25. Shambhu Ram S/O Late Sukhdeo Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

26. Sukhdeo Ram S/O Late Laxman Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

27. Sharda Devi D/O Late Kesho Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

28. Dilip Ram S/O Late Karu Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

29. Bijali Ram S/O Late Kisun Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

30. Ganauri Rajwar S/O Late Ram Sahay Ram Resident Of Village - Jakho Devipur, P.S. - Akbarpur, District - Nawadah

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. AJAY KUMAR SINGH

For the Respondent/s : Mr. SANJAY KR NO.2

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 11-01-2016

Heard learned counsel for the parties.

2. Petitioners have called in question the impugned order dated 22.11.2012 passed by the learned Subordinate Judge II, Nawadah in Title Suit No. 196 of 2010 by which the court below has allowed the prayer of the interveners respondents to be

impleaded as party defendants in the suit.

3. A suit has been filed by the plaintiffs-petitioners mainly for declaration of title over the suit land followed by declaration that the survey entry of the suit land made in the revisional survey Khatian as "ANABAD BIHAR SARKAR" is wrong and incorrect, and also for confirmation of possession. During the pendency of the suit, a petition has been filed by the Interveners claiming for their impleadment as party defendants in the suit. By the impugned order, the court below has allowed the prayer of the Intervener respondents to be included as party defendants to the suit.

4. Mr. Ajay Kumar Singh, learned counsel for the petitioners, submitted that the learned court below has wrongly applied the jurisdiction vested in it by allowing the prayer of the Interveners to be added as party defendants in the suit. It has been canvassed by the learned counsel for the plaintiffs-petitioners that the plaintiffs have prayed for the relief for declaration of their title and also for declaration of survey khatian entry of the suit land in the name of State of Bihar as wrong and incorrect and has further claimed for confirmation of his possession but the Interveners have not claimed their title over the suit land and have made the prayer for intervention in the suit on the basis of their alleged possession over the suit land. It has been contended that in view of the provisions of

Order I Rule 10 (2) of the Code of Civil Procedure, the Interveners are neither proper nor necessary parties to the suit.

5. Learned counsel for the Interveners respondents, on the other hand, has submitted that the Interveners though have not claimed any title over the suit land, their claim is based on their possession over the suit land being members of Mahadalit class. It has been then submitted that as the possession of the Interveners are there which has also been recognized by the Revenue authorities, they are necessary parties or atleast proper parties to the suit.

6. On a perusal of the impugned order and the materials on record, it is manifest that the suit has been filed by the plaintiffs for declaration of their title and confirmation of possession and also for declaration that the survey khatian entry in the name of State of Bihar is wrong. The claim of the Interveners-defendants are only on the basis of their possession on the ground that the suit land belongs to the State of Bihar. However, it is not the case of the defendant-State of Bihar that it has granted any recognition of their possession by granting them Parcha or by settling the suit land in their favour nor there is any such case pleaded by the interveners. The provision of Order I Rule 10(2) of the Code of Civil Procedure is attracted only in case of a person(s) whose presence is necessary for



effective and complete adjudication of all questions involved in the suit. In the case of **Kasturi Vs. Iyyamperumal and others reported in (2005) 6 S.C.C. 733** the Hon'ble Apex Court has considered the nature and scope of the provisions of Order I Rule 10 (2) of the Code of Civil Procedure and has recognized two tests for determining the question who is necessary party. Those tests are (1) there must be a right to some relief against such party in respect of the controversies involved in the proceedings; and (2) no effective decree can be passed in the absence of such party. It has been also laid down in the said decision that 'all the questions involved in the suit' will not include the controversy which may arise between the plaintiffs or defendants inter se or the question between the parties to the suit and third parties. In the present case, it is apparent that the Interveners-defendants have not prayed for any title over the suit land instead they have accepted that the suit land belongs to the State of Bihar. Even the order passed by the Deputy Collector, Land Reforms (Annexure B to the counter affidavit) does not support the legal entitlement of possession of the interveners over a suit land when the right, title and interest of the State of Bihar over the suit land has been found but the proceeding has been dropped in view of the pendency of the suit.

7. As such, the conclusion is inevitable that the Interveners-defendants are neither necessary parties nor proper

parties to the suit as the State of Bihar has also not recognized their legal right to be in possession over the suit land. The learned court below in the impugned order has not adverted to the rival cases of the parties in correct perspective and has wrongly allowed the Interveners-defendants to be impleaded as party defendants by passing a cryptic order. It is well settled that a plaintiff is *dominus litis* in the suit and he cannot be compelled to fight out the litigation by adding such persons as defendants who have only peripheral interest over the suit property or who are only trespassers or squatters over the same.

8. For the aforesaid reasons, this application is allowed and the impugned order is, accordingly, quashed.

(V. Nath, J)

min/-

U			
---	--	--	--