

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.726 of 2016**

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Dukhai Mukhiya & Anr

.... Appellant/s

Versus

Musharu Kamat & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sushanta Kumar Das

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 27-09-2016

Heard the learned counsel, Mr. Sushanta Kumar Das for
the petitioners.

Perused the impugned order dated 13.07.2016 passed by
Munsif, Birpur, Supaul in Title Suit No.9 of 2002 whereby the
Court below has rejected the intervention application filed by the
petitioners in Title Suit No.9 of 2002.

It appears that plaintiffs-respondents filed the aforesaid
Title Suit No.9 of 2002 for declaration of title against the
defendants-respondents. The defendants-respondents are
contesting the suit. In the suit, the interveners-petitioners filed
application showing that in fact, the interveners are the real
descendants of the recorded tenant and, therefore, are the real
owner. Neither the plaintiffs nor the defendants are related to the
family of the recorded tenant, as such, they have got no right, title
but the plaintiffs filed the suit without impleading the petitioners.

In view of the above fact, now the dispute is between the original parties in the suit in the one side and the interveners in the other side.

It is settled principles of law as has been held by the Hon'ble Supreme Court in the case of **Kasturi vs. Iyyamperumal, (2005) 6 Supreme Court Cases 733** wherein the Supreme Court has held as follows:

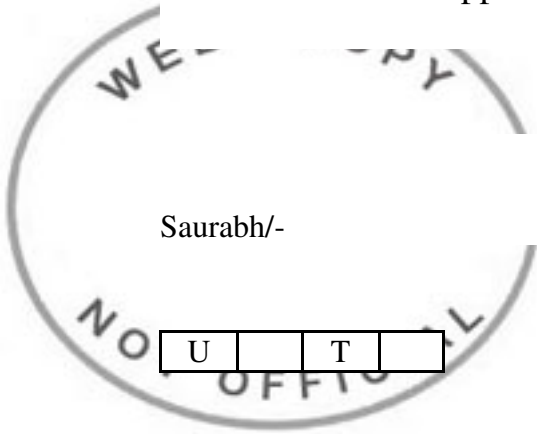
“from a plain reading of expression “all the questions involved in the suit” used in Order 1 Rule 10(2) C.P.C. it is abundantly clear that the legislature clearly meant that only the controversies raised as between the parties to the litigation must be gone into, that is to say controversies with regard to the right which is set up and the relief claimed on one side and denied on the other and not the controversies which may arise between the plaintiffs or the defendants inter se or questions between the parties to the suit and a third party.”

In view of the above settled proposition of law and in view of the claim made by the petitioner, now these interveners-petitioners are third party so far the suit in question i.e. Title Suit No.9 of 2002 is concerned. Therefore, the claim which has been raised by the petitioners cannot be decided in this present suit.

If so advised, the petitioners may initiate another proceeding before appropriate forum for redressal of their grievances.

So far the impugned order is concerned, I find no reason

to interfere with the same, as such, this Civil Miscellaneous application is dismissed.



Saurabh/-

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(Mungeshwar Sahoo, J)