

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8970 of 2014

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Kaushlya Devi wife of Kishun Prasad Yadav resident of Village - Jasat, P.S. Dhamaul (Pakaribarawan), District - Nawada

.... Petitioner/s

Versus

1. Usha Devi wife of Dwarik Yadav resident of Village - Jasat, P.S. Dhamaul (Pakaribarawan), District - Nawada
2. Runa Devi wife of Durga Yadav resident of village - Bisunpur (Budhauri), P.S. Pakaribarawan, District - Nawada
3. Sabo Devi wife of Rameshwar Yadav resident of Village - Jasat, P.S. Dhamaul (Pakaribarawan), District - Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Durgesh Nandan, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 26-04-2016

Heard Mr. Durgesh Nandan, learned counsel for the petitioner.

The legal sustainability of the impugned order rejecting the prayer of the petitioner to be added as a party in the suit has been called in question in the present application under Article 227 of the Constitution of India.

The fact is not in dispute that the title suit was filed by the respondent no. 1 Usha Devi against the respondent no. 2 Runa Devi and respondent no. 3 Sabo Devi for declaration of right, title and possession over the suit land. The present petitioner has claimed to



have purchased the suit land on 16.08.2011 from the respondent no. 3 Sabo Devi during the pendency of the suit and thereafter she filed the petition for being impleaded as party in the suit. The learned court below by the impugned order has held that the sale in favour of the present petitioner has been made during the pendency of the suit and therefore the petitioner is not entitled to be impleaded as party in the suit.

Learned counsel for the petitioner has submitted that in order to avoid multicipility of the litigation, the learned court below should have allowed the prayer of the petitioner to be added as party in the suit. Learned counsel for the petitioner, however, has accepted that in the petition filed before the learned court below the petitioner has stated that she has been peaceful possession over the suit property.

After considering the submissions and the materials on record, it is evident that the suit has been filed by the respondent no. 1 against the respondent nos. 2 and 3 for declaration of right, title and possession over the suit land. The respondent no. 3 has transferred the suit property in favour of the present petitioner and on that basis the present petitioner has filed the petition praying for her impleadment as party in the suit. It is obvious enough that the present petitioner is a purchaser pendente lite and has also claimed to be in peaceful possession over the suit land. The provision of Order 1 Rule 10 (2)

also does not support the case of the present petitioner for being impleaded as party in order to determine the questions arising in the suit between the parties thereto. There is also no averment in the petition that the respondent no. 3 who is the vendor of the present petitioner has left taking interest in the suit or has gone in collusion with the plaintiff in the suit.

In this fact situation and in view of the dictum laid down by the Apex Court in **Sarvinder Singh Vs. Dalip Singh, 1996 (5) SCC 539**, this Court is not inclined to exercise its jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.

The writ application is, accordingly, dismissed with liberty to the petitioner to seek redressal of her grievances in accordance with law.

(V. Nath, J)

Devendra/-

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