

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7859 of 2015

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1. Umesh Prasad S/O Late Dahaur Gope Resident of village:- Rahimpur
Tola Mahmadpur, P.S:- Phulwarisharif, Dist. Patna.

.... Petitioner/s

Versus

1. Mohtasam Ali Khan son of Md. Ali Khan, Resident of village
Abulahchak, P.S:- Phulwarisharif at present residing at Macsons shoes
House New Market Patna.
2. Sanjeet Kumar son of Late Shiv Balak Prasad, Resident of village
Rahimpur, P.S. & P.O. Parsa Bazar, Dist. Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Alok

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 07-04-2016 Heard Mr. Kumar Alok, learned counsel for the
petitioner.

By the order dated 28.11.2014, learned Munsif-II, Patna
in Title Suit No. 35 of 1991 allowed the intervention application filed
by the intervener- respondent for being added as party in Title Suit on
the ground that he has purchased part of the property in the year
2013.

Learned counsel for the petitioner submitted that the
intervener has not acquired any title in the property on the basis of
purchase through Power of Attorney holder but the Court below has
erroneously allowed him to be added as party. According to the
learned counsel, the application was filed only for the purpose to delay
in disposal of the old Suit which is of the year 1991 and the evidence
of both the parties have already been closed.

It is admitted fact that the intervener is a purchaser during the pendency of the Suit. The provision contained in order 1 rule 10 (2) of the Code of Civil Procedure speaks about the jurisdiction of the Court and the Court has the discretion to add a necessary party.

The Hon’ble Supreme Court in the case of Amit Kumar Shaw and another Vs. Farida Khatoon and another, AIR 2005 Supreme Court 2209 and also again in the case of A. Nawab John and others Vs. V. N. Subramaniam, (2012) 7 SCC 738 have clearly held that a person who has purchased a portion of the property has a right to be added as party to protect his interest and the Court below should liberally allow the application.

In such view of the matter when the matter has already been settled by the Hon’ble Supreme Court, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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