

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9466 of 2014

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Ajay Kumar son of Late Deo Narain Prasad Resident of Mohalla - K.P. Lane,
Dholakya Gali, Police Station - Kotwali, District - Gaya

.... Petitioner/s

Versus

1. Anand Kishore Prasad son of Late Deo Narain Prasad Resident of Mohalla -
K.P. Lane, Dholakya Gali, Police Station - Kotwali, District - Gaya
2. Shyam Sunder Prasad son of Late Deo Narain Prasad Resident of Mohalla -
K.P. Lane, Dholakya Gali, Police Station - Kotwali, District - Gaya
3. Sri Raj Kishore Prasad son of Late Deo Narain Prasad Resident of Mohalla -
K.P. Lane, Dholakya Gali, Police Station - Kotwali, District - Gaya
4. Smt. Sumitra Devi wife of Late Ram Chandra Sao Resident of Sumitra Kunj,
Police Station Dally Market, District - Ranchi
5. Smt. Lalita Devi wife of Late Jugeshwar Prasad resident of Malahchak Police
Station Jehanabad, District - Jehanabad
6. Smt. Kaushilya Devi wife of Sri Baleshwar Prasad Resident of Mohalla -
Khandak Par Police Station Biharsharif, District - Nalanda
7. Smt. Sheela Devi wife of Sri Jawahar Prasad Resident of Maniband, Near Old
Bank of India Building, Police Station - Dhausar, District - Dhanbad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 09-05-2016

Heard Mr. Pramod Kumar, learned counsel for the
petitioner. Learned counsel for the respondent no. 2 is also present.

Calling in question the legal sustainability of the
impugned order by which the prayer of the respondent no. 2 for his
impleadment as party in the suit has been allowed, the present

application under Article 227 of the Constitution of India has been filed.

Learned counsel for the petitioner has submitted that the intervener-respondent no. 2 had already filed a suit for eviction which was decreed in terms of the compromise and therefore he would have now no more share in the property subject matter of the present suit for partition. It has also been submitted that though the present petitioner is a defendant in the suit still he has the entitlement to question the impugned order even though the plaintiff has not challenged the said order.

After considering the materials on record and the submissions on behalf of the parties, it has been accepted that the intervener-respondent no. 2 is the own brother of the plaintiff-respondent no. 1 as well as the defendant-petitioner. The fact remains that the earlier suit for partition was with regard to the joint family property. In the present suit besides the other properties the property which came to the share of the father of the plaintiff, defendant and intervener-defendant is also subject matter of the suit. In this view of the matter, the learned court below has not committed any illegality or material irregularity in allowing the prayer of the intervener-respondent no. 2 to be impleaded as party in the suit. This Court, therefore, is not inclined to interfere with the impugned order in

exercise of its jurisdiction under Article 227 of the Constitution of India.

The present application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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