

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1865 of 2016

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Dinesh Kumar

.... Petitioner/s

Versus

The Bihar State Housing Board & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Jayaswal

For the Respondent/s : Mr. Anil Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 06-05-2016

Heard the learned counsel, Mr. Anil Jayaswal for the petitioner and the learned counsel, Mr. Aditya Prakash Sahay for the respondent Nos.1 to 4.

The learned Munsif III, Patna by order dated 18.03.2015 passed in Title Suit No.74 of 1999 rejected the application filed by the plaintiff-petitioner under Order I Rule 10 C.P.C. for impleading Bindeshwari Prasad Singh as defendant No.5.

It appears that the plaintiff-petitioner filed the aforesaid suit for allotment of a piece of land by the Housing Board as the raiyati land has been acquired by the Housing Board in the year 1957. During the pendency of the suit, perpetual registered lease dated 28.06.2014 has been granted by the Housing Board in favour of Bindeshwari Prasad Singh. Therefore, when the plaintiff came to know about this transfer, the application was filed for adding him as party. The Court below by the impugned order

rejected the application on the ground that there is nothing in the petition to show that how the presence of proposed defendant is necessary for complete and effective adjudication of present suit.

The Hon'ble Supreme Court in the case of **Mumbai International Airport Private Limited vs. Regency Convention Centre and Hotels Private Limited and others, (2010) 7 Supreme Court Cases 417** at paragraph 24.4 has held that "if an application is made by a plaintiff for impleading someone as a proper party subject to limitation *bona fide* etc., the court will normally implead him if he is found to be a proper party."

Admittedly, the lease has been granted in favour of Bindeshwari Prasad Singh. Now, therefore, in view of Order XXII Rule 10 C.P.C. also, the property has now devolved on the assignee or transferee, Bindeshwari Prasad Singh.

The Hon'ble Supreme Court in the case of **Amit Kumar Shaw and another v. Farida Khatoon and another, AIR 2005 Supreme Court 2209** has held that the transferee pendente lite should normally be added as party in the suit.

In view of the above settled principles of law, in my opinion, the Court below has rejected the application in the manner not permitted by law. If the impugned order is allowed to stand, it will lead to multiplicity of proceeding and that will be a

great hardship to the petitioner as according to the petitioner his properties have been acquired by the Housing Board and still then he is in possession of the property.

In the result, this writ application is allowed. The impugned order is set aside. The application filed by the plaintiff is allowed. Bindeshwari Prasad Singh is added as defendant.

(Mungeshwar Sahoo, J)

Saurabh/-

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