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IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2993 of 2014

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Mahapati Devi

.... Petitioner/s

Versus

Renu Devi & Ors

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Rakesh Kumar
For the Respondent/s : Mr. Null

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 08-01-2016

Heard the learned counsel for the petitioner.

This application under Article 227 of the Constitution of India has been filed by the defendant-petitioner against the order dated 22.08.2013 passed by Sub-Judge II, Hilsa, Nalanda in Title Suit No. 53 of 2004 whereby the Court below allowed the application filed by the intervenor under Order I Rule 10 (2) C.P.C. for being added party in the place of the plaintiff in the aforesaid suit.

It appears that the original plaintiff filed the aforesaid suit for declaration that the sale deed executed in favour of this defendant-petitioner by one of the co-personer is void ab initio. The said plaintiff died in the year 2011, thereafter the present intervenor filed the application for being added in place of the

plaintiff on the ground that he had purchased the property from the plaintiff in the year 2008. The learned Court below has allowed this application.

It is admitted fact that the intervenor had purchased the property from the plaintiff. The grievance of the petitioner is that the intervener who had purchased the property in the year 2008 should not have been added as a party plaintiff to challenge the sale deed in favour of the petitioner which is of the year 2004.

Admittedly the suit has been filed in the year 2004 and during the pendency of the suit, the intervenor has purchased the property from the plaintiff who has died in the year 2011.

The Hon'ble Supreme Court in the case of ***Amit Kumar Shaw Versus Farida Khatoon and another, AIR 2005 Supreme Court 2209*** has held that '**under Order 22 Rule 10 an alienee pendente lite may be joined as party and for that the Court has discretion in the matter which must be judicially exercised and an alienee would ordinarily be joined as a party to enable him to protect his interests.'**

Therefore, the jurisdiction has been vested in the Court to exercise judicial discretion in connection with addition of a party.

As stated above, the intervenor is a purchaser during the pendency of the suit. Therefore, the Court below has rightly exercised discretionary jurisdiction in view of the settle principles of laid down by the Hon'ble Supreme Court. In such circumstances, the impugned order cannot be interfered with in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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