

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15300 of 2015

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Kanti Devi

.... Petitioner/s

Versus

Raja Ram Sharma & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 29-03-2016 Heard learned counsel Mr. Pankaj Kumar for the
petitioner.

2. By the impugned order dated 25.08.2015 the learned
Civil Judge (Junior Division), Sheikhpura in Title Suit No.05 of
2015 allowed the intervention application filed by respondent
no.1.

3. The learned counsel for the petitioner relying upon the
decisions of this Court in **Kauleshwari Devi Vs. The State of
Bihar, 2014 (3) PLJR 10** and **Permanand Singh Vs. Sona Singh
& Ors., 2015 (1) PLJR 289** submitted that the plaintiff in a suit
being *dominus litis* may choose the person against whom he
wishes to litigate and cannot be compelled to sue a person against
whom he does not seek any relief. In the present case, the plaintiff
is not claiming any relief against respondent no.1 but the court
below wrongly added him as party. According to the learned

counsel, while allowing the intervention application the court below also held that the descendants of Lekha Mishtri are necessary party although only respondent no.1 has applied for being added as party.

4. So far the decisions relied upon by the learned counsel for the petitioner are concerned, it appears that the facts are entirely different. In one case filed by the State of Bihar the plaint of the suit was rejected under Order VII Rule 11 CPC and thereafter the State of Bihar filed the application for being added as party. So far the other case is concerned, the suit was only for injunction.

5. It may be mentioned here that that 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** has held that no doubt a person who is not a party has no right to be impleaded against the wishes of the plaintiff but that general rule is subject to the provisions of Order I Rule 10(2) CPC by which the Court is given the discretion to add as a party, any person, who is found to be necessary party or proper party. Therefore, if the Court finds that a person is necessary party, the Court gets the jurisdiction to add the person as party.

6. From perusal of the impugned order in the present case, it appears that on the basis of the materials produced before the Court the court below found that for effective decisions of the controversies between the parties the intervener is a necessary party. So far the observation made by the Court that the descendants of Lekha Mishtri are necessary party is concerned, it may be mentioned here that the intervener respondent no.1 is only claiming to be in possession of the property after making construction of house thereon, that part of observation is surplus and unwarranted. However, so far the impugned order is concerned, I find no reason to interfere with in exercise of supervisory jurisdiction.

7. Thus, this writ application is dismissed.

Harish/-

(Mungeshwar Sahoo, J)

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