

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8843 of 2014

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Surendra Kumar Sinha son of Late Sheo Nandan Prasad resident of Mohalla
Makhania Kuan, Nagar Nausa Kothi, P.O. Bankipur, P.S. Pirbahore, District Patna.

.... Petitioner/s

Versus

1. Saroj Kumar Sinha son of Late Sheo Nandan Prasad.
2. Manoj Kumar son of Sri Saroj Kumar Sinha Both residents of Mohalla
Makhania Kuan, P.O. Bankipur, P.S. - Pirbahore, District Patna.
3. Mittu Kumari wife of Sri Niraj Kumar and daughter of Sri Saroj Kumar Sinha
resident of Mohalla Bank Men's Colony Chitragupta Nagar Kankarbagh, P.S.
Patrakarnagar, P.O. Lohiyanagar District Patna.
4. Sandhya Rani Wife of Sri Ranjan Kumar and daughter of Sri Saroj Kumar
Sinha resident of Mohalla Ashiyana Nagar, Jagat Vaishnavi Apartment, Flat no.
P-11, P.S. Rajiv Nagar, P.O. Bihar Veterinary College, District Patna.
5. Mittual Sinha wife of Sri Narendra Kumar and daughter of Sri Surendra Kumar
Sinha resident of Sector - VIII, 327-c, P.S. Unnuna Gram Vishakahapatnam -
530031.
6. Rinku Kumari Sinha wife of Sri Rohit Raj and daughter of Sri Surendra Kumar
Sinha.
7. Ruchi Sinha daughter of Sri Surendra Kumar Sinha Both resident of Mohalla
Makhania Kuan Nagar Nausa Kothi, P.O.Bankipur, P.S. Pirbahore, District
Patna.
8. Veena Devi wife of Sri Shivpujan Sahni
9. Sikandar Sahni son of Sri Shivpujan Sahni Both residents of Arya Kumar Road,
Machhuatol P.S. Kadamkuan, District Patna.
10. Binod Kumar Sinha son of Late Sheo Nandan Prasad resident of Mohalla -
Makhania Kuan Nagar Nausa Kothi, P.O.Bankipur, P.S. Pirbahore, District
Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abinash Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

Date: 28-04-2016

Heard Mr. Abinash Kumar, learned counsel for the petitioner.

Calling in question the impugned order by which the learned court below has impleaded the respondent no. 10 as party defendant in the suit, the defendant no. 1-petitioner has filed this application under Article 227 of the Constitution of India.

The facts are admitted that the suit has been filed for partition. However, it is the case of the plaintiffs that the suit property described in schedule-II of the plaint in earlier petition was allotted exclusively to their father alongwith the plaintiff and the defendant no. 1 while his remaining sons were separately allotted other properties by registered deed of partition dated 24.04.1964. The respondent no. 10 filed a petition for his impleadment as a party in the suit on the basis that he would be entitled to his share in the property allotted to the share of his deceased father. By the impugned order, the learned court below has allowed the prayer of the respondent no. 10 to be impleaded as party defendant in the suit.

Mr. Abinash Kumar, learned counsel for the petitioner has submitted that after the partition dated 24.04.1964 wherein admittedly the respondent no. 10 has separated and the father along with his two sons (plaintiff and defendant no. 1) remained joined, the respondent

no. 10 would not be entitled to his share. It has been further contended that the learned court below has wrongly exercised its jurisdiction in allowing the prayer of the respondent no. 10.

After considering the materials on record as well as the submissions on behalf of the petitioner, it is apparent from the impugned order that the respondent no. 10 filed the petition claiming his share in the property allotted exclusively to the father to the extent of 2 annas 8 paisa and has claimed himself to be entitled to the share along with his brothers. The learned court below has held that for determination of the questions arising between the parties in the suit, the respondent no. 10 is a necessary party. In the backdrop of these facts, this Court does not find that the learned court below has committed error of jurisdiction or material irregularity in passing the impugned order.

The present application is, accordingly, dismissed.

Devendra/-

(V. Nath, J)

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