

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1208 of 2016**

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1. Smt. Nitu Kumari @ Nila Devi, Wife of Sri Binay Prasad
2. Smt. Anita Devi, Wife of Sri Ashok Prasad
Both Resident of Mauza - Parsa Garh, P.S. - Ekma, District - Saran
(Chapra).

.... Petitioners

Versus

1. Sri Dinanath Prasad, son of late Daya Sah
2. Sri Shankar Prasad, son of late Devki Sah
Both Resident of Parsa Garh Bazar, P.S. - Ekma, District - Saran (Chapra).

.... Plaintiffs-O.P.

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Appearance :

For the Petitioners : Mr. Narayan Singh, Sr. Advocate
For the O.P. : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 28-11-2016

Heard learned Senior Counsel Mr. Narayan Singh,
for the petitioners.

Perused the impugned order dated 06.09.2016 passed
by the learned Munsif-1st, Saran at Chapra in Title Eviction Suit
No. 150 of 1996 whereby the learned court below rejected the
Intervention Application filed by the present petitioners.

It appears that eviction suit was filed by the plaintiff
against the defendants under Bihar Building (Lease, Rent and
Eviction) Control Act, 1982. The defendants of the suit have sold
these properties to the present petitioners in the year 2012 and
2014.

The learned counsel for the petitioners submitted that the purchaser should be added as party as they have got direct interest in the property and the defendant may collide with the plaintiff. The learned Senior Counsel relied upon a decision of **Supreme Court AIR 2005 SC 2209**.

It may be mentioned here that the decision relied upon by the learned Senior Counsel for the petitioners is not applicable in the present case because the question of title cannot be decided in an eviction suit. The purchasers-petitioners are claiming title on the basis of sale deed said to have been executed by the defendants. The Hon'ble Supreme Court in the Case of **Rajendra Tiwari Vs. Basudeo Prasad AIR 2002 SC 136** has held that the scope of the enquiry before the courts was limited to the question as to whether the grounds for eviction of the defendant have been made out under the Act. The question of title of the parties to the suit premises is not relevant.

Therefore, if at all the petitioners have got title on the suit property, they may initiate appropriate proceeding before appropriate forum but for deciding that whether there is relationship of landlord and tenant between the plaintiff and the defendant and whether the plaintiff has been able to prove any of

the ground under Section 11 of the BBC Act, the presence of these petitioners is not at all necessary. In other words, they are not necessary party in an eviction suit. The plaintiff admittedly is not claiming that these petitioners are his tenants.

Thus, I find no reason to interfere with the impugned order and accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J.)

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