

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.482 of 2017

- =====
1. Jalil Ansari @ Jalil Miya.
 2. Vakil Miya both are son of late Shaukat Ali.
 3. Liyakat Ansari.
 4. Irfan Ali.
 5. Imran Ansari 3 to 5 are son of late Khalil Miya.
 6. Shairun Nissa daughter of late Shaukat Ali, all are resident of Mohalla-Gajadharganj, P.S. Buxar town, District-Buxar.

.... Appellant/s

Versus

Raja Ram son of Ram Kawal Ram resident of Mohalla-Khalasi Buxar, P.S. Buxar (town)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arvind Kumar Pradhan, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 31-07-2017

Heard learned counsel for the petitioners.

By the impugned order, the learned court below has turned down the prayer of the plaintiff-petitioners for addition of the person as party in the suit.

Learned counsel for the petitioners has submitted that the person sought to be impleaded as party in the suit has claimed his own right over the suit land and has threatened to dispossess the plaintiffs



over the suit land and therefore on that basis the prayer has been made on the ground that the said person is a necessary or proper party in the suit.

The matrix of facts discloses that the suit has been filed by the plaintiffs claiming their title over the suit land on the basis of the gift deed and further relief has been sought for declaration of the sale deed in favour of the defendant as illegal, sham and not binding upon the plaintiffs. The fact has been noticed in the impugned order and also has been accepted by the learned counsel for the petitioners that the sale deed in question stands in the name of only the defendant. In that view of the matter, the person who has been sought to be impleaded as party cannot be a necessary or a proper party in the suit in view of the specific provision of Order 1 Rule 10 (2) C.P.C.

Learned counsel for the petitioners has relied upon the decision of this Court in the case of **Laxmi Devi Vs. The State of Bihar, 2017 (1) PLJR 602** in support of his submission. However, in view of the law as laid down by the Apex Court in the case of **Ramesh Hirachand Kundanmal Vs. Municipal Corporation of Greater Bombay, 1992 (2) SCC 524** and reiterated in the case of **New Redbank Tea Co. Pvt. Ltd. Vs. Kumkum Mittal, 1994 (1) SCC 402**, this Court does not find that the learned court below has committed any illegality or error of jurisdiction in passing the



impugned order.

The application sans merit, is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

AFR/NAFR	
CAV DATE	
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