

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.63 of 2016**

=====

Bharat Paswan

.... Petitioner/s

Versus

Awadhesh Narayan Choudhary & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ranjan Kumar Dubey

For the Respondent/s : Mr.

=====

**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO**

ORAL ORDER

3 15-02-2017 Heard the learned senior counsel, Mr. S.S.Dvivedi for the petitioner and the learned counsel, Mr. Uma Kant Shukla for the interveners-respondents.

The plaintiff-petitioner has filed this application under Article 227 for setting aside the order dated 11.03.2016 passed by Sub Judge XIII, Motihari, East Champaran whereby the learned court below allowed the intervention application filed by the intervener under Order I Rule 10 C.P.C. for being added as party-respondent.

It appears that the plaintiff-petitioner filed the aforesaid suit for declaration of title and for declaration that the award passed by the Lok Adalat is not binding on the plaintiff as the award is collusively obtained by the defendant Nos.1 to 3 with respect to the property of the plaintiff which he has purchased from defendant Nos.1 and 2. The interveners-respondents filed the



application alleging that they are also purchaser of part of the suit plot from the defendant and the plaintiff is trying to dispossess the interveners. The court below by the impugned order has allowed the application filed by the interveners on the ground that the interveners are also purchasers of the suit land.

The learned senior counsel for the petitioner submitted that the interveners are not claiming the property of the plaintiff which has been purchased by the plaintiff from the defendant Nos.1 and 2 measuring 1 katha 19 ½ dhurs and, therefore, the interveners who are not party in the proceeding before Lok Adalat are not at all necessary party in the suit. The issue which is to be decided in the suit is whether the award passed by the Lok Adalat is collusive and is not binding on the plaintiff or not.

On the other hand, the learned counsel, Mr. Shukla for the interveners submitted that though the interveners have not purchased the land which the plaintiff is claiming to have purchased but they are purchasers of different part of the same plot but the plaintiff is creating trouble, therefore, 144 Cr.P.C. proceeding was initiated between the parties with respect to the land purchased by the interveners, as such, the interveners are necessary party. The court below considering this aspect has allowed the intervention application.



It is admitted fact that the plaintiff is claiming to have purchased a different land from defendant Nos.1 and 2. In the schedule of the plaint the purchased property has been described by the plaintiff. In the counter-affidavit, the interveners have annexed the sale deed which they have purchased. In the sale deed, the description of the property which has been purchased by the interveners has been mentioned and in the boundary of the land purchased by the interveners, the petitioner has been shown. It is admitted that the suit land i.e. the plot is a big plot and there are different purchasers. The plaintiff has filed the suit for declaration of his title with respect to the property which he has purchased. The interveners are not claiming that property i.e. the suit land which has been purchased by the plaintiff. Their case is that they have purchased a different land but then there is dispute between the plaintiff with respect to the land which the interveners have purchased.

In view of the above submissions, now it becomes clear that the plaintiff has filed the suit for declaration of his title with respect to the property which he has purchased. The interveners are not claiming title over this property. Admittedly, the interveners are not party to the proceeding before the Lok Adalat. Now therefore, for deciding as to whether the plaintiff has got title



over the property which he has purchased from defendant Nos.1 and 2 and whether the award passed by the Lok Adalat will be binding on the plaintiff or not, the presence of the interveners who are not claiming the land of the plaintiff or not party to the proceeding before the Lok Adalat, is not at all necessary. In other words, the interveners are not at all necessary party in the present suit. Therefore, the learned court below without considering as to whether the interveners are necessary party or not has allowed the application merely on the ground that they are also purchaser of the suit land.

Thus, the court below has passed the impugned order in the manner not permitted by law. Accordingly, this civil miscellaneous application is allowed. The impugned order is set aside. The application filed by the interveners under Order I Rule 10 C.P.C. is hereby rejected.

(Mungeshwar Sahoo, J)

Saurabh/-

U		T	
---	--	---	--

