

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.187 of 2016

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Rajnet Prasad s/o Late Mangal Prasad, R/o Village- Kotanwa, P.S.- Gopalganj,
District- Gopalganj. Appellant/s

Versus

1. The Minister, District Bhudan Yagya Karyalaya, Gopalganj Ararmore, District & P.S.- Gopalganj.
2. The President, Bihar Bhudan Yagya Committee, Bihar, Patna.
3. The State of Bihar through District Magistrate, Gopalganj, P.S. & District- Gopalganj.
4. Julus Prasad S/o- Lotan Prasad, R/o Village- Kotanwa, P.S.- Gopalganj, District- Gopalganj. Respondent/s

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Appearance :

For the Appellant/s : Mr. Vishwajeet Kumar Mishra, Adv.
For the State : Mr. Jay Prakash Sharma, AC to G.P. 21
For the R No. 3 : Mr. Ram Chandra Lal Das, Adv.
For the Private R No. 4. : Mr. Harendra Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 07-03-2017

Heard learned counsel for the petitioner and learned counsel for the respondents.

The present application has been filed questioning the legal sustainability of the impugned order by which the learned court below has allowed the prayer of the respondent no. 5 Julus Prasad to be impleaded as party in the suit.

The facts are not in dispute that the present petitioner as plaintiff filed the suit for declaration of title over the suit land and for grant of injunction restraining the respondents from interfering in the



possession of the plaintiff over the suit land. In the said suit, Tilak Bhagat was impleaded as defendant no. 1 by the plaintiff-petitioner. It also appears from the impugned order that the said defendant no. 1 Tilak Bhagat died during the pendency of the suit. In this regard, it has been submitted by learned counsel for the respondents that the said defendant no. 1 Tilak Bhagat died in the year 2011. It does not appear from the averments made in the present application or from the impugned order that any steps for substitution of the heirs and legal representatives of the deceased defendant no. 1 was taken by the plaintiff-petitioner or any prayer was made for expunging his name from the plaint. During the pendency of the said suit, the respondent no. 5 filed a petition claiming to be the legal representative of the deceased defendant no. 1 on the basis of his adoption by the said defendant no. 1 Tilak Bhagat. The plaintiff-petitioner contested the case of adoption as pleaded by the respondent no. 1. The learned court below after considering the facts and circumstances and materials on record has allowed the prayer of the respondent no. 5 to be impleaded as party defendant in the suit.

After considering the submissions and perusal of the materials on record including the impugned order, this Court finds substance in the submission on behalf of the petitioner that the present application may be disposed of with liberty to the plaintiff-petitioner



to raise objection with regard to the case of adoption of the respondent no. 5 in the suit in accordance with law at the appropriate stage.

Learned counsel for the respondents has raised no objection to the said prayer.

Accordingly, this application is disposed of with liberty to the plaintiff-petitioner to raise appropriate objection with regard to the case of adoption as setup by the respondent no. 5 in accordance with law.

(V. Nath, J)

Devendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	27.04.2017
Transmission Date	

