

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.89 of 2016

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1. Arun Das S/o Sri Ishwar Das.
 2. Sarita Devi, W/o Sri Arun Das, Both resident of village - Manikpur, Pakri, P.S.
- Lalganj, District - Vaishali.

.... Appellant/s

Versus

1. Raj Pati Devi W/o Dev Lal Das, Resident of Villaeg - Pakari, P.S. - Bidupur,
District - Vaishali.
2. Kailash Das
3. Baidyanath Das, Both are sons of Late Bira Das Resident of Village - Basanta
Jahanabad, P.S. - Lalganj, District - Vaishali.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Chandan Kumar Verma, Adv.
For the Respondent/s : Mr. Surendra Kishore Thakur, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 16-03-2017

Heard learned counsel for the petitioners and the respondents.

The legal acceptability of the impugned order by which the learned court below has turned down the prayer of the petitioners for being impleaded as party in the suit for partition has been questioned in this application under Article 227 of the Constitution of India.

The facts are not in dispute that the suit has been filed by the respondent no. 1 against the remaining respondents as defendants. The suit has been filed in the year 2007. The petitioners have



purchased the parts of the suit property by registered sale deeds dated 12.02.2007 and 01.11.2007 in the names of the petitioner no. 2 and the petitioner no. 1. It appears from the records that the suit has been filed on 24.05.2007.

Learned counsel for the petitioners has submitted that as the petitioners have purchased the part of the suit property before filing of the suit and after filing of the suit, they are the necessary parties to the suit as they have acquired valid right, title and interest in the suit property and no decree can be passed without affecting their interest.

From the perusal of the materials and after considering the submissions as well as impugned order, it is limpid that the suit is for partition and the only question/issue arising in the suit would be the issue pertaining to the unity of title and possession over the suit property. The petitioners are strangers to the family of the plaintiff as well as the defendants in the suit and thus they cannot be a necessary party for adjudication of the said issue. Learned court below has also noticed that the suit is at the stage of argument when the present petition for their impleadment as intervenor-defendants has been filed. It is nowhere the case of the petitioners in their petition dated 18.06.2015 (Annexure-5) that they had earlier no knowledge of the suit. To the contrary it has been asserted on behalf of the respondents



in their rejoinder (Annexure-6) that the petitioner no. 1 has been the pairvikar of the defendants in the suit from the beginning.

In the aforesaid background facts, this Court is not inclined to interfere in the impugned order by invoking the jurisdiction under Article 227 of the Constitution of India.

The application is, accordingly, dismissed.

However, the dismissal of the petition for their impleadment as parties in the suit on the basis of the purchase by registered sale deed dated 12.02.2007 and 01.11.2007 will not affect the right, title and interest of the petitioner to protect the same in accordance with law.

(V. Nath, J)

Devendra/-

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CAV DATE	
Uploading Date	03.05.2017
Transmission Date	

