

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.882 of 2016

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1. Ram Bali Chaudhary & Ors son of late Prem Lal Choudhary
 2. Uday Chaudhary son of Ram Bali Chaudhary
 3. Renu Devi wife of late Yamuna Chaudhary
 4. Anil Chaudhary , son of late Yamuna Choudhary
 5. Sunil Chaudhary son of late Yamuna Chaudhary
 6. Kalpana Devi daughter of late Yamuna Chaudhary
 7. Ashok Chaudhary son of Chandra Bali Chaudhary
 8. Ram Chandra Chaudhary son of late Prem Lal Chaudhary, All resident of village - Shubhankarpur Pohaddi, P.O. & P.S. - Bahera, District - Darbhanga

.... Petitioners

Versus

1. The State of Bihar through Principal Secretary Revenue Department.
2. The Collector Darbhanga, Darbhanga.
3. The Circle Officer, Benipur, District - Darbhanga **Defendant-Respondent 1st set**
4. Smt. Ambika Devi wife of Sri Ram Kishore Roy & daughter of Sri Ram Chandra Chaudhary resident of village - Pauri, P.S. - Bahera District - Darbhanga
5. Smt. Mira Devi wife of Sri Shyam Nandan Jha & daughter of Sri Ram Chandra Chaudhary resident of village - Shubhankarpur Pohaddi, P.O. & P.S.- Bahera, District - Darbhanga.

Interveners.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Anis Akhtar
For the Respondent/s : Mr. Raj Kishore Roy-GP18

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

Date: 25-04-2017

Heard Mr. Anis Akhtar, learned counsel for the petitioners and learned counsel appearing for the respondent Nos. 4 and 5.

The assail in the present application under Article 227 of the Constitution of India by the petitioners is to the order by which the leaned court below has allowed the prayer of the



respondent Nos. 4 and 5 to be impleaded as intervener-defendants to the suit.

After considering the submissions and perusal of the materials on record including the impugned order, it is manifest that the suit has been filed by the plaintiffs against the State of Bihar and its official-defendants claiming declaration of their right, title and interest over the suit land and other consequential and ancillary relief.

From perusal of the plaint (Annexure-1) it further transpires that the cause of action for the suit has been mentioned as wrong entry of the suit land in the name of the State of Bihar in the recent survey proceeding and the apprehended attempt by the defendant-State officials to take wrongful gain of the said entry and settle the suit land.

From the petition filed on behalf of the respondent Nos. 4 and 5, it transpires that the respondent Nos. 4 and 5 who are the daughter of the plaintiff No. 5 have stated in the petition that they want to safeguard their interest in the suit property apprehending some foul play at the hands of the other plaintiffs.

The learned court below in the impugned order has also taken the view that as the respondent Nos. 4 and 5 are the heirs of the plaintiff No. 5, being his daughters, their interest is also involved



in the suit property and they are necessary party for determination of the issues arising in the suit.

This reasoning by the court below is not supported by the materials on record including the pleadings filed in the suit. It is demonstratively clear that in the said suit, relief has been sought only against the State of Bihar. The respondent Nos. 4 and 5 would clearly be not the persons who would be directly affected by the result of the suit. It is well settled by the Apex Court in the case of Ramesh Hirachand Kundanmal Vs. Municipal Corporation of Greater Bombay and others: (1992) 2 SCC 524 that no person can be impleaded as party for espousing his own cause of action. Again, in the case of New Redbank Tea Co. Pvt. Ltd. Vs. Kumkum Mittal & others: (1994) 1 SCC 402, the Apex Court has reiterated the view that only the persons whose presence before the Court is necessary for deciding the issue arising between the parties can be impleaded as party by exercising jurisdiction under Order 1 Rule 10(1) CPC. In view of the dictum of the Apex Court as above, this Court holds that the learned court below has committed illegality in passing the impugned order by allowing the prayer of Respondent Nos. 4 and 5 to be impleaded as party defendants in the suit. Accordingly, the impugned order is quashed.

However, this order shall not affect the right, title and



interest of the petitioners, if any, in the suit property in independent
action in accordance with law.

(V. Nath, J)

S.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.06.2017
Transmission Date	

