

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.326 of 2017**

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Mir Mohammad Quasim

.... Petitioner

Versus

Md. Shamim & Anr

.... Respondents

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Appearance :

For the Petitioner : Mr. Sushanta Kumar Das

For the Respondents : Mr.

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

ORAL ORDER

2 23-02-2017

Heard learned counsel for the petitioner.

2. Perused the impugned order dated 18.11.2016 passed by the learned Subordinate Judge-VII, Araria in Title Suit No.177 of 2013 whereby the learned Subordinate Judge has rejected the intervention application filed by the petitioner under Order 1 Rule 10 (2) of the Code of Civil Procedure.

3. It appears that the suit for specific performance was filed by the plaintiff-respondent against the defendant-respondent. The petitioner herein filed application for being added as party on the ground that the suit property belonged to him and, therefore, the defendant had no right to enter into agreement to sell the property to the plaintiff.

4. The Hon'ble Supreme Court in the case of **Kasturi Vs. Iyyamperumal and others, (2005) 6 Supreme Court Cases**



733 considered the provision as contained in Order 1 Rule 10(2) CPC in the case of suit for specific performance and has held that **a third party or stranger to the contract cannot be added in a suit for specific performance merely in order to find out who is in possession of the contracted property or to avoid multiplicity of suits. According to the Hon'ble Supreme Court the expression "all questions involved in the suit" used under Order 1 Rule 10(2) CPC it is abundantly clear that the legislature clearly meant that only the controversies raised as between the parties to the litigation must be gone into, that is to say, controversies with regard to the right which is set up and the relief claimed on one side and denied on the other and not the controversies which may arise between the plaintiffs or the defendants inter-se or questions between the parties to the suit and a third party.**

5. In view of the above settled proposition of law this petitioner, who is even challenging the title of the defendant, is a stranger to the suit for specific performance. So far his claim of title is concerned, that cannot be decided in the present suit for specific performance. Thus I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction.



6. Accordingly, this civil miscellaneous application is
dismissed.

(Mungeshwar Sahoo, J)

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