

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.719 of 2016**

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1. Md. Amir Subahani Son of Badiruddin
 2. Md. Masobbir Subahani Son of Badiruddin Both resident of Line Bazar, Police Station Khazanchi Hat, District Purnea
 3. Md. Adnan Alam Son of Habibur Rahman
 4. Md. Rousan Jamir Son of Habibur Rahman
Both resident of village Maitra, Police Station Amour, District Purnea
 5. Md. Habibur Rahman Son of Late Amiruddin
 6. Md. Mozahidul Islam Son of Md. Habibur Rahman Both resident of village - Maitra, Police Station Amour, District Purnea
 7. Naiyar Hussain Son of Salimuddin resident of village - Chandbhati, Police Station Degruwa, District - Purnea

.... Intervener-Petitioner/s

Versus

1. Abu Md. Sajjad Akhtar Son of Late Abdul Rajjak Both resident of Line Bazar, Police Station Khazanchi Hat, District Purnea
2. Bibi Madina Khatoon Wife of Late Md. Salim
3. Md. Equwal Son of Late Md. Salim
4. Md. Jamal Son of Late Md. Salim
5. Amna Khatoon daughter of Late Md. Salim
6. Munni Khatoon daughter of Late Md. Salim
7. Md. Kalim Son of Rasul Bux Nos. 2 to 7 all resident of Line Bazar, Police Station Khajanchi Hat, District – Purnea

---Defendant 1st party-Respondents

8. Akbari Khatoon Wife of Abu Md. Jamal Akhtar
 9. Md. Rizwan Son of Late Abu Md. Jamal Akhtar
 10. Rahima Khatoon daughter of Abdul Rajjak Wife of Late Md. Nazamuddin
- Nos. 8 to 10 all resident of Line Bazar, Police Station Khajanchi Hat, District – Purnea

---Defendant 2nd party-Respondents

11. Md. Moktar Son of Late Md. Nazir Ahmad
12. Md. Zahid Son of Ziaur Rahman Both residing at Line Bazar, Police Station Khajanchi Hat, District – Purnea

--- Defendant 3rd party-Respondents

13. SK. Raja Hussain Son of Late Fedu Hussain @ Fudku Mian
 14. Md. Mortaja Hussain Son of Late Fedu Hussain @ Fudku Mian
 15. Md. Kefayat Hussain Son of Late Fedu Hussain @ Fudku Mian
- Nos. 13 to 15 all resident of Line Bazar, Police Station Khajanchi Hat, District - Purnea

.... Defendant 4th party-Respondents

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Appearance :

For the Appellant/s : Mr. Khatim Reza
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER**



7 29-11-2017 Heard Mr. Khatim Reza appearing on behalf of the petitioners and Mr. J.S.Arora, the learned senior counsel appearing on behalf of the respondents.

The petitioners have filed this civil miscellaneous petition against the order dated 13.07.2016 passed in Title Suit No.266 of 1994 by which the petition of interveners-petitioners for adding as defendants has been dismissed.

The learned counsel for the petitioners submits that admittedly the petitioners purchased the lands from Md. Kalim, defendant No.6 during the pendency of the suit and they had no knowledge about the pendency of the suit. They filed petition for their impleadment on the condition that they would adopt the written statement of defendant no.6 only to save their own interests.

Mr. J.S.Arora, learned senior counsel for the respondents submits that according to Section 52 of the T.P. Act, the petitioners are the purchasers during the pendency of the suit and they shall enter into shoes of the defendants. The plaintiff filed the suit for declaration of title over the suit property but in the meantime, the defendant No.6 sold the land during the pendency of the suit. If the petitioners are allowed to be impleaded as defendants, the petitioners may linger the disposal of the suit.



Having considered the submission of both sides, I am of the view that the transferees or the purchasers from the defendants during the pendency of the suit cannot claim to be impleaded as a matter of right but since the petitioners purchased the land from defendant No.6 without having any knowledge about the pendency of the suit and their rights are to be affected by the decision of the suit, therefore, the petitioners should have been impleaded as defendants if they adopt the written statement of his vendors.

Accordingly, I find that the learned Munsif has committed illegality in rejecting the petition of the petitioner. Accordingly, the same is set aside. The petitioners are directed to be impleaded as defendants in the suit on his undertaking that they shall adopt the written statement of defendant No.6. The Munsif shall dispose of the suit within nine months, if possible, as the suit is of the year 1994.

(Prabhat Kumar Jha, J)

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