

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14754 of 2013

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1. Kalika Choubey Son Of Late Ram Swaroop Choubey Resident Of Mauza-
Nateyan, P.O.- Nateyan, P.S.- Kudra, District- Kaimur At Bhabhua

.... Petitioner/s

Versus

1. The State Of Bihar Through Collector, Kaimur At Bhabhua
2. Circle Officer, Kudra, District- Kaimur
3. Rajesh Kumar Gupta Son Of Satnarayan Sah Resident Of Village- Nateyan, P.S.-
Kudra, District- Kaimur
4. Satnarayan Sah Son Of Late Raghubir Sah Resident Of Village- Nateyan, P.S.-
Kudra, District- Kaimur
5. Sudama Sah Son Of Late Banwari Sah Resident Of Village- Nateyan, P.S.-
Kudra, District- Kaimur
6. Om Prakash Sah Son Of Ram Parikha Sah Resident Of Village- Nateyan, P.S.-
Kudra, District- Kaimur
7. Vakil Sah Son Of Late Banwari Sah Resident Of Village- Nateyan, P.S.- Kudra,
District- Kaimur
8. Sri Ram Choubey, Son Of Kalika Choubey Resident Of Mauza- Nateyan, P.O.-
Nateyan, P.S.- Kudra, District- Kaimur At Bhabhua

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. RAJESH KUMAR MISHRA, Adv
For the Respondent/s : Mr. AVNISH NANDAN SINHA, Adv

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 16-01-2017

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

The legal acceptability of the impugned order by
which the learned court below has impleaded respondent 2nd set as
party defendant in the suit allowing their prayer in this regard has
been questioned under Article 227 of the Constitution of India. It is
not disputed on behalf of the petitioner that the suit was filed only



for grant of permanent injunction against the defendant-State of Bihar restraining them from demolishing the construction made by the plaintiff over the suit land.

During the course of submission, the fact has also been accepted that the suit land has been recorded in the survey khatian in the name of defendant-State of Bihar. The respondent 2nd set filed a petition for being impleaded as intervenor defendant in the suit on the basis that the suit land is 'aam rasta' and therefore, they are interested persons in the suit land as well as the reliefs as prayed on behalf of the plaintiff. The learned court below has allowed the prayer made on behalf of the respondent 2nd set.

After considering the submissions and perusal of the impugned order it is manifest that the suit has been filed only for grant of permanent injunction. Manifestly no relief with regard to title has been prayed by the plaintiff. It is also not in dispute that the suit land has been recorded in the name of the State of Bihar. In this background, when the respondent 2nd set filed the petition asserting that the suit land is 'aam rasta' and the learned court below has come to the conclusion that the respondent 2nd set have got direct interest in the suit property, this Court has not been persuaded to find any perversity or unreasonableness in the impugned order. The contention on behalf of the petitioner that since the plaintiff is



dominus litis and therefore, the respondent 2nd set ought not to have been impleaded as party against the wishes of the plaintiff cannot be sustained in view of the express provision under Order 1 Rule 10(2) CPC.

Accordingly, it is held that this application has got no merit and is dismissed as such.

(V. Nath, J)

Ranjan/-

AFR/NAFR	
CAV DATE	
Uploading Date	3.02.2017
Transmission Date	

