

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15059 of 2013

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Sri Jainandan Prasad Son Of Late Chalitar Mahto Resident Of Village - Narauli
Dih, P.O. Binda, Distt. Muzaffarpur.

.... Petitioner/s

Versus

1. The State Of Bihar through Collector, Muzaffarpur.
2. Anchal Adhikari Musahari, P.O. & P.S. Mushahari, Distt. Muzaffarpur.
3. Ram Bahan Rai Son Of Late Jagdeo Rai Resident Of Village Narauli Kalyan,
P.O. Bind, P.S. Musahari, Munsifi And Distt. Muzaffarpur.
4. Sri Narain Prasad Son Of Late Chalitar Mahto By Caste Kushawaha By
Occupation Kast Kari Resident Of Village Narauli Dih, P.O. Binda, P.S.
Musahari, Distt. Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhaykr. Sinha kundan, Adv.

For the Respondent/s : Mr. P.N. Sahi, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 09-01-2017

Heard learned counsel for the petitioner.

The legal acceptability of the impugned order by which the
learned court below has refused the prayer of the petitioner to be
impleaded in the suit as party-defendant has been questioned by filing
this application under Article 227 of the Constitution of India.

The suit was originally filed by the plaintiff-respondent no.
3 against the survey entry of the land in the name of the State of
Bihar. During the pendency of the suit, the respondent no. 4 was



impleaded as plaintiff no. 2 in the suit. Subsequently, the present petitioner filed a petition praying his impleadment as defendant on the ground that he had also got 1/3rd share in the suit land which was wrongly recorded in the name of State of Bihar. The further prayer on behalf of the petitioner was also to grant him opportunity to place his version and to file written statement. By the impugned order the learned court below has rejected the prayer of the petitioner.

Learned counsel for the petitioner has submitted that the petitioner has got 1/3rd share in the suit land and has also referred to list of documents which included the sale deed filed on behalf of the petitioner with further submission that the same has not been considered. It has also been contended that the suit property is a Rasta and therefore, the interest of the present petitioner will be affected due to the wrong survey entry. Learned counsel has also submitted that if the prayer of the petitioner would not be allowed it would result in multiplicity of the suit. No other submission has been made on behalf of the petitioner.

After considering the submissions and perusal of the impugned order as well as materials on record, it is manifest that the suit has been filed by the plaintiff-respondents against the survey entry of the land in the name of the State of Bihar. The relief was claimed for declaration of title by the plaintiff over the suit land



against the State of Bihar. During the pendency of the suit, as it transpires from the impugned order, that the suit property was sold to the respondent no. 4 who was added as plaintiff no. 2 in the suit. The prayer of the petitioner to be impleaded as defendant in the suit is clearly on the basis of his own cause of action against the wrong survey entry. As the relief in the suit is confined to the wrong survey entry against the defendant-State of Bihar, the learned court below has rightly come to the conclusion that the petitioner being stranger to the relief claimed in the suit cannot be impleaded as party-defendant. The Apex Court in the case of **Ramesh Hiranand Kundanmal Vs. The Municipal Corporation of Greater Bombay, 1992 (2) J.T. 116** has ruled that a person having independent cause of action cannot be made party in the suit and further that the refusal of the prayer for non-impleadment resulting in multiplicity of proceeding also cannot be the reason for exercise of jurisdiction under Order 1 Rule 10 (2) C.P.C. Moreover the learned court below has also found that the documents filed by the petitioner are not related to the suit land.

Learned counsel for the petitioner, at this juncture, has drawn attention of this court to the provision of Order 1 Rule 3 C.P.C. in order to support his contention. In the opinion of this Court, the submission is clearly misconceived as the ambit and scope of the said provision is entirely distinct.



This Court, therefore, does not find any illegality in the impugned order.

The application is, accordingly, dismissed.

Devendra/-

(V. Nath, J)

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