

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.159 of 2014

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1. Md. Nahaluddin
 2. Md. Imamuddin Both S/o Late Hazi Jamaluddin Resident of Mohalla Naya Tola, Aassanandpur, P.S. Tatarpur, District Bhagalpur.

.... Petitioners.

Versus

1. Md. Khurshid Alam S/o Late Md. Yusuf
2. Zulalkha Bano W/o Md. Khurshid Alam Both Resident of Mohalla Rashidpur, Akbarnagar, P.S. Akbarnagar, District Bhagalpur.

.... Opposite Parties.

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Appearance :

For the Petitioners : Mr. Bimlendu Mishra

For the Opposite Parties: Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

3 27-04-2017 Heard learned counsel for the petitioners and perused the record of the case.

2. The petitioners have preferred this Civil Revision Application against the order dated 27.06.2014 passed by the learned Munsif 2nd, Bhagalpur, in Title Eviction Suit No.16 of 2012, by which and whereunder he dismissed the petition filed on behalf of the petitioners.

3. The brief fact of the present case is that the plaintiffs/ opposite parties filed Title Eviction Suit No.16 of 2012 against the petitioners. Admittedly, the father of the petitioners was inducted as a tenant in the suit premises by the original owner of the suit property and, subsequently, the suit property was



purchased by the plaintiffs/ opposite parties. However, before institution of Title Eviction Suit No.16 of 2012, the father of the petitioners died and, therefore, the aforesaid Title Eviction Suit No. 16 of 2012 was filed by the plaintiffs/ opposite parties against the defendants/ petitioners. During the pendency of the aforesaid Title Eviction Suit No.16 of 2012, a petition was filed on behalf of the defendants/petitioners that their mother was necessary party to the aforesaid Title Eviction Suit No. 16 of 2012 but she has not been made party to the aforesaid Title Eviction Suit No.16 of 2012 and, therefore, the aforesaid eviction suit was liable to be dismissed but the learned court below dismissed the aforesaid petition filed on behalf of the petitioners passing the impugned order.

4. Submission on behalf of the petitioners is that the mother of petitioners is residing in the suit premises independently and she has not been made party to the aforesaid Title Eviction Suit No. 16 of 2012 whereas she is a necessary party but, even then, the learned trial court illegally rejected the prayer of the petitioners but I am not at all convinced with the aforesaid submission of the learned counsel for the petitioners because even if it is assumed that the mother of the petitioners is residing in the aforesaid suit premises independently, then also, it is the choice of



the landlord to file title eviction suit against any of his tenants and, therefore, even if it is assumed that the plaintiffs/ opposite parties filed Title Eviction Suit No. 16 of 2012 only against the defendants/ petitioners, then also, the aforesaid Title Eviction Suit cannot be dismissed on the ground that the mother of petitioners has not been made party to the aforesaid Title Eviction Suit. However, in the present case, it is an admitted case of the defendants/ petitioners that they derived the right of tenancy from their father, who was original tenant of the suit premises, and, similarly, the mother of defendants/ petitioners also derived her right to reside in the aforesaid suit premises through her husband. Therefore, if the decree of eviction is passed against the defendants/ petitioners then that decree shall be effected and binding against the mother of the petitioners also.

5. In view of the aforesaid facts and circumstances of the case, I do not find any merit in this Civil Revision Application and, accordingly, the same is dismissed on Admission stage itself.

6. However, it is made clear that if the mother of petitioners make prayer for adding herself as a party to the aforesaid Title Eviction Suit No. 16 of 2012 within a month from the date of passing of this order, the trial court shall concede the prayer of mother of the petitioner without being prejudiced by this



order.

(Hemant Kumar Srivastava, J)

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