

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18225 of 2013

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Kailash Singh & Anr

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Khatim Reza

For the Respondent/s : Mr. Prahlad Kr. Bhagat

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

4 03-10-2017 Heard the learned counsel, Mr. Khatim Reza for the petitioners, the learned counsel, Mr. Firoz Reza for the respondent No.3 and the learned counsel, Mr. Anil Kumar for the respondent Nos.4 to 8-interveners.

This writ application under Article 227 of the Constitution of India has been filed by the plaintiffs-petitioners for setting aside the order dated 06.08.2013 passed by the learned Munsif V, Gaya in Title Suit No.207 of 2002 whereby the learned Munsif has allowed the intervention application filed by the interveners-respondent Nos.4 to 8.

From perusal of the impugned order dated 06.08.2013, it appears that the learned Munsif has passed a cryptic non-speaking order. The order which has been passed is only to the effect that the application filed by the interveners dated 22.11.2012 is hereby allowed. No reason has been assigned.

It may be mentioned here that unless it is found by the



Court that the interveners are necessary party in the suit, the Court has no jurisdiction to add them as party. In the present case, the court below has not recorded any finding as to whether the interveners are necessary party in the suit filed by the plaintiffs-petitioners against the respondent Nos.1 to 3. The court below has also not recorded any finding as to whether in the absence of the interveners, the suit can be decided effectively and finally between the parties or not.

The court below has not at all considered the settled principles of law laid down by the Supreme Court in **(2010) 7 Supreme Court Cases 417(Mumbai International Airport Private Limited vs. Regency Convention Centre and Hotels Private Limited and others)** wherein the Hon'ble Supreme Court has decided who is necessary party and who is proper party.

Thus, in my opinion, the impugned order is without jurisdiction and has been passed in mechanical manner without application of judicial mind.

In the result, this writ application is allowed. The impugned order is set aside. The matter is remanded back to the court concerned for passing a fresh order after hearing the parties on the intervention application.

(Mungeshwar Sahoo, J)

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