

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25003 of 2013

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1. Seema Devi W/O Ganga Rai Resident Of Village/Mohalla - Hanumanganj Mishra Tola , P.O. And P.S. Town Darbhanga, District - Darbhanga
 2. Ram Singhasan Rai S/O Sri Shiv Nandan Rai Resident Of Village/Mohalla - Hanumanganj Mishra Tola , P.O. And P.S. Town Darbhanga, District - Darbhanga
 3. Sanjay Kumar Rai S/O Ram Singhasan Rai Resident Of Village/Mohalla - Hanumanganj Mishra Tola , P.O. And P.S. Town Darbhanga, District - Darbhanga
 4. Piriti Kumari, Minor D/O Sri Ramsinghasan Rai Under The Guardianship Of Father Ram Singhasan Rai Resident Of Village/Mohalla - Hanumanganj Mishra Tola , P.O. And P.S. Town Darbhanga, District - Darbhanga
 5. Guriya Devi D/O Ram Singhasan Rai, W/O Karanti Rai R/O Mohalla - Shubhankarpur, P.O. Shubhankarpur, P.S. Town Darbhanga, District - Darbhanga
 6. Pinki Devi D/O Ramsinghasan Rai, W/O Ajay Rai Resident Of Mohalla - Bhigo, P.O. Lalbagh, P.S. Laheria Sarai, District - Darbhanga

.... Petitioners

Versus

1. Mahabir Rai S/O Late Badri Rai Resident Of Mohalla - Hanumannagar Mishra Tola, P.O. And P.S. Darbhanga
2. Raj Kishore Rai Son Of Mahabir Rai Resident Of Mohalla - Hanumannagar Mishra Tola, P.O. And P.S. Darbhanga
3. Sanjay Kumar Rai Son Of Mahabir Rai Resident Of Mohalla - Hanumannagar Mishra Tola, P.O. And P.S. Darbhanga

.... Respondents

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Appearance :

For the Petitioners : Mr. Bhubneshwar Prasad, Advocate
For the Respondents : Mr. Md. Abu Haidar, Advocate
: Mr. Abu Shajar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL ORDER

3 06-12-2017 This application has been filed to quash the order dated 23.09.2013 passed by Sub Judge-IV, Darbhanga in Partition Suit No.120 of 2005 whereby and whereunder the learned court below refused to implead the heirs of Bhola Rai as party to the suit by way of amendment of plaint.

2. Heard learned counsel for the petitioners, learned counsel for the respondents and perused the record.



3. On perusal of impugned order and document on record, I find that the petitioners/plaintiffs at para-7 of the plaint has averred that after the death of Bhola Jee Rai, his wife and sons sold their $1/3^{\text{rd}}$ share of the joint family property to Mahabir Rai (defendant no.1) and thus after purchase the defendants are in possession of $2/3^{\text{rd}}$ share along with $1/3^{\text{rd}}$ share of the plaintiffs in the total area of the suit land. The above averments clearly show that the plaintiffs in spite of full knowledge about the sale deed executed by the heirs of Bhola Jee Rai did not implead them (i.e., vendor of Mahabir Rai) as party to the suit. The argument of both sides had concluded and it was fixed for judgment. The plaintiffs on the same day, filed an amendment petition for impleading the heirs of Bhola Jee Rai as party to the suit. The court below as per reasoned order has rightly rejected the petition of the plaintiffs.

4. In view of the above discussions, I do not find any merit in present application requiring any interference in the impugned order. This application is accordingly dismissed.

(Sanjay Kumar, J)

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