

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1407 of 2017

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1. Anant Mahto S/o Late Sukhan Mahto R/o Village - Painathi, P.O. - Painathi, P.S. - Bihta, District - Patna.

.... Petitioner

Versus

1. Arunjay Paswan S/o Late Makarat Paswan
2. Smt. Manju Devi W/o Arunjay Paswan, both are residents of Village - Painathi, P.O. - Painathi, P.S. - Bihta, District - Patna.
3. The State of Bihar through the Collector, Patna.
4. The Circle Officer, Bihta Block, Bihta, District - Patna.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Dharmendra Kumar

For the Respondent/s : Mr. Sajid Salim Khan-Sc25

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

2 18-07-2018 Heard learned counsel for the petitioner and learned counsel appearing on behalf of respondent no.3 and 4.

The petitioner has filed this Civil Miscellaneous petition against the order dated 24.04.2017 passed in Title Suit No.79/2017 by learned Sub Judge-I, Danapur by which the learned Sub-Judge-I, Danapur rejected the petition of the petitioner filed under Order 1 Rule 3(a) read with Section 151 of the C.P.C.

The plaintiffs filed suit for correction in the record of rights with regard to the suit land and stated that the suit land was settled in favour of Lalmuni Devi by ex-land lord but due to mistake the same was recorded in the name of State of Bihar.



Learned counsel for the petitioner submits that the petitioner filed petition that the land is a ditch and the water drainage of the entire village fell in the ditch but the plaintiffs wanted to encroach the lands. Therefore, they are necessary party in the suit. It is further submitted that the petitioner has already filed C.W.J.C. No.9368 of 2013 against inaction of the State authority in executing the order passed in Encroachment Case No.05/2011-12.

I find that admittedly the plaintiffs are in possession of the lands and the encroachment proceeding was also initiated. The plaintiffs filed suit for correction in the record of right standing in the name of State of Bihar and the plaintiffs did not seek any relief against the intervener petitioner or any other person. Therefore, in my view, the petitioner is neither a necessary party nor a proper party and thus I find that the learned court below has rightly rejected the petition of the petitioner.

Accordingly, this Civil Miscellaneous petition is dismissed as devoid of merit.

(Prabhat Kumar Jha, J)

Amit/-

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