

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9524 of 2013

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Jalalludin Khan S/o Mohaddi Khan, R/o Village- Rajanpura, P.S.- M.H. Nagar,
District- Siwan.

.... Petitioner/s

Versus

1. Ram Brit Yadav S/o Raja Ahir, R/o village- Rajanpura, Post- Rajanpura, P.S.-
M.H. Nagar, District- Siwan
2. Birendra Yadav S/o Late Ramdeo Yadav,
3. Moti Lal Yada S/o Kapildeo Yadav,
4. Sri Ram Yadav S/o Chandar Yadav,
Respondent nos. 2 to 4 are resident of village – Rajanpura Ke Tila, P.O.-
Rajanpura, P.S.- M.H. Nagar, District- Siwan
5. Shiv Prasad Yadav S/o Raja Ahir,
6. Ram Prasad Yadav S/o Raja Ahir,
7. Laxuman Yadav S/o Shiv Brit Yadav,
8. Vijay Yadav S/o Shiv Brit Yadav,
Respondent nos. 5 to 8 are resident of village- Rajanpura, P.O.- Rajanpura, P.S.-
M.H. Nagar, District- Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Ranjeet Kumar, Kundan Kumar and
Mrs. Ranjeeta Singh
For the Respondent/s : Mr. Ranjan Kumar Dubey, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 14-03-2018

The petitioner has filed this application for quashing the order dated 23rd January 2013 passed by the Munsif-II, Siwan in T.S. No. 121 of 2006. The learned court below, as per impugned order, rejected the petition filed by this petitioner for impleading him as party to the suit under the provision of Order 1 Rule 10 of Code of Civil Procedure.

2. Heard learned counsels for the petitioner as well as



the respondents.

3. The sole plaintiff, who is respondent no. 1, filed the aforesaid T.S. No. 121 of 2006 for declaration of his title as well as title of defendants 2nd set, who are respondent nos. 5 to 8 before this Court. The plaintiff sought relief restraining the defendant no. 1 from causing any interference in his peaceful possession. The suit is with respect to 1 Katha 9 dhur land of plot no. 509 under Khata no. 6 as mentioned in schedule of the plaint. The defendant no. 1 appeared and filed written statement. He denied the right and title of the plaintiff and defendant 2nd set and prayed for dismissal of the suit. During the pendency of the suit, the plaintiff and defendant nos. 5 and 6 and mother of defendant no. 8 transferred the suit property in favour of the petitioner by executing a registered sale deed dated 9.4.2010. The sale deed was executed with respect to 1 Katha 19 dhurki land of plot no.509 under Khata no. 6 although the total area of suit property in the plaint has been mentioned as 1 Katha 9 dhur. The plaintiff and defendant, who jointly sold the land in favour of the petitioner, had initially contested the suit for declaration of their right and title, but they subsequently filed a compromise petition before the court below. The petitioner having come to know about the foul play on the part of his vendor who is plaintiff and defendant nos. 5 and 6 and mother of defendant no. 8, filed a petition under Order 1 Rule 10 CPC for



impleading them as party to the suit.

4. The contention of the learned counsel for the petitioner is that this petitioner has purchased the entire suit property from the plaintiff and some of the defendants and so he has right to proceed with this case for declaration with respect to his right and title. The plaintiff had initially filed the suit for declaration of his title but after executing the sale deed, he allegedly in connivance with the defendant 1st set, has filed a compromise petition and has accepted the title and possession of defendant 1st set. The conduct of the plaintiff shows that he in collusion with some defendants mala fide admitted the title of the defendant 1st set. After purchase of the property as stated above, the petitioner has right to proceed with this case to protect his interest and so the impugned order refusing to implead the petitioner as plaintiff to the suit is not sustainable.

5. In view of above fact, the impugned order dated 23rd January 2013 passed in T.S. No. 121 of 2006 is set aside and this application is allowed. The petitioner is directed to be impleaded as party to the suit.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.03.2018
Transmission Date	

