

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13467 of 2010

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1. Shriman Kapileshwar Singh S/O Late Raj Kumar Subheshwar Singh
R/O Rambag Palace, P.S. L.N.M.U. Campus, Distt-Darbhanga
 2. Shriman Rajeshwar Singh S/O Late Raj Kumar Subheshwar Singh R/O
Rambag Palace, P.S. L.N.M.U. Campus, Distt-Darbhanga

.... Petitioners

Versus

Bal Krishna Jha S/O Yogendra Jha R/O Moh Rai Saheb Tank,
P.S.Bahadurpur, Distt-Darbhanga , At Present Ganga Executive Club
Rambag Quila, P.S.L.N.M.U. Campus, Distt-Darbhanga

.... Respondent

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Appearance :

For the Petitioners : Mr. Ganpati Trivedi, Advocate
Mr. Lovekush Kumar, Advocate
For the Respondent : Mr. Arbind Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

6 23-01-2018 This application has been filed to set aside the order dated 11.03.2010 passed by Sub Judge-I, Darbhanga in Title Suit No.23 of 2009 whereby and whereunder the amendment petition filed by plaintiff was allowed and Smt. Geeta Jha was impleaded as defendant in the suit.

2. Heard learned counsel for the petitioners as well as the respondent.

3. The respondent filed Title Suit No.23 of 2009 against the petitioners for a decree for specific performance of oral contract on the basis of oral contract. As per contract, the petitioners agreed to sell 20 Katha 15 dhurs land in different plots numbers for a total consideration of Rs.22,82,500/-. The due date



for performance of contract was fixed as 15.10.2008. It was agreed between the parties that the land was to be sold in parcel according to convenience of both the parties and consideration money was also agreed to be paid as per demand draft, cheques as per their convenience. The defendant no.1 executed two sale deeds on 03.05.2000 and 08.05.2000 in the name of wife and son of the plaintiff. Thereafter, the defendant did not execute any sale deed. The plaintiff learnt on 30.09.2008 that the defendants have negotiated to execute sale deed with respect to the land under contract and so after giving notice to the petitioners, the plaintiff filed the present suit for specific performance of contract. The petitioners appeared and filed written statement on 27.05.2009. The respondent/plaintiff alleges that the staffs of defendant and one Smt. Geeta Jha suddenly came on the land and started demolishing structure. The said Geeta Jha revealed that she has purchased the land from the defendant by virtue of registered sale deed executed in the year 2007.

4. Learned counsel for the petitioners submits that the land was sold to Smt. Geeta Jha in the year 2007 whereas the suit was filed in the year 2009. This is a suit for specific performance of contract on the basis of agreement between the plaintiff and the petitioners. The purchasers Smt. Geeta Jha is not party to the said



agreement. Neither she received any consideration money nor has entered into an agreement with the plaintiff and so she is not necessary party to the suit. The court below has erred in impleading her as parties to the suit and so the impugned order is fit to be set aside.

5. Learned counsel for the respondent on the other hand submitted that the said purchaser is a necessary party as she has purchased the land which was the subject matter of contract between the plaintiff and defendants. The contract for sale was made in the year 2000. The plaintiff has paid amount to the defendants in different instalment as per cheques. The defendant malafide in order to frustrate the contract has executed sale deed in favour of Smt. Geeta Jha. The agreement is also binding on the purchaser. The court below for proper adjudication of entire dispute between the parties has impleaded the purchaser Smt. Geeta Jha as party to the suit. The apprehension of the petitioners is that the newly added defendant would prolong the disposal of the suit. It is not in dispute that the petitioner has purchased the land much earlier to the institution of the suit. The newly impleaded party cannot derive better than her vendor had. She has stepped into the shoes of her vendor and so she has right to protect her interest as defendant to the suit.



6. In view of above fact, the impugned order impleading Smt. Geeta Jha as defendant to the suit does not suffer from any illegality. The court below has not committed any jurisdictional error in impleading her as defendant. This application is therefore dismissed. The court below however is directed to expedite the trial on priority basis.

(Sanjay Kumar, J)

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