

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7689 of 2014

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1. Kamla Kant Tiwary S/O Late Ram Das Tiwary
2. Umakant Tiwari S/O Late Ram Das Tiwary
Both (1) and (2) are resident of Village Mangra, P.O. Bhakura, P.S. Karakat, District Rohtas.

.... Petitioners

Versus

1. The State of Bihar through its Collector Rohtas (Sasaram).
2. The Circle Officer, Karakat Anchal (Godari) District- Rohtas.
3. The Mukhiya, Village Panchayat Chikisi Anchal- Karakat, District Rohtas.
4. Shankar Tiwari, S/o Late Parsuram Tiwari, resident of village- Mangara P.O.- Bhakura, Anchal- Karakat, District- Rohtas.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Uday Kumar, Advocate
For the Respondent/s : Mr. Rajanikant Singh, Advocate
Mr. Kumar Kamal Nayan, A.C. to S.C. 28

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

6 23-03-2018 The petitioners are plaintiffs of Title Suit No.07 of 2012 pending in the court of Munsif, Bikramganj, Rohtas. They have filed this writ application for quashing the order dated 03.03.2014 whereby and whereunder the court below impleaded Shankar Tiwary as defendant no.4 to the suit.

2. Heard learned counsel for the petitioners and the respondents.

3. It appears that the petitioners filed the aforesaid suit against the State of Bihar and others for declaration of their title and confirmation of possession over 6 decimals land of Plot



No.578 of Khata No.104 corresponding to C.S. Plot No.398 of Khata No.47. The case of the plaintiffs is that the aforesaid land having total area measuring 2.96 decimals originally belonged to ex-landlord Sri Govind Sharan Singh and it was in his cultivating possession. The ancestor of the plaintiffs had land in C.S. Plot No.388 adjoining east to the said Plot No.398. The ancestor of plaintiffs with the permission of ex-landlord filled soil over 6 decimals land of Plot No.398 and planted trees and bamboo clumps. The said land is in possession of the plaintiffs over which the State of Bihar has started creating trouble. The intervener had or has no concern with the said land and so he is not necessary party to the suit. The land has been recorded as “Gair Majarua Aam” in the name of State of Bihar and so the present suit has been filed for declaration of title only against the State of Bihar. The intervener has neither title nor any manner concern with the suit land and so the court below has erred in impleading him as party to the suit.

4. The learned counsel for the respondents, on the other hand, submits that the land in question stands recorded as “Gair Majarua Aam” land. The nature of land is ditch land (karha) and the same is being utilized for irrigation purpose. The Government of Bihar and its authorities, who are defendant nos. 1 to 3, had



initiated encroachment proceeding bearing Encroachment Case No.02 of 2007-08 against the plaintiffs who have no title or possession over the same. They have encroached portion of 'Gair Majarua Aam' land and so the intervener-respondent filed C.W.J.C. No.3802 of 2009 for getting the encroachment removed. In the said writ application, this Court had directed for speedy disposal of encroachment case.

5. It appears that after disposal of the said writ application, the plaintiffs have filed the present suit only to get the encroachment proceeding halted. The suit land is being utilized by the petitioners and villagers and so the public in general has interest in protecting the said land. The court below considering the nature of dispute and also the interest of intervener, who is fighting with the petitioners since long, has impleaded him as party to the suit. The court below has not committed any jurisdictional error in impleading the intervener as party to the suit.

6. In view of above facts, I find that this writ application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

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