

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6892 of 2011

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Sanjay Singh son of Shri Shyamanand Singh, resident of village- Gunwanti, P.S.-
Bousi Basethi, District- Araria.

.... Petitioner/s

Versus

1. Shri Shyamanand Singh son of Late Agahanu Singh @ Aghanoo Singh, resident of village- Guniwanti, P.S.- Bousi Basethi, District- Araria.
2. Shri Sunil Singh son of Shri Shyamanand Singh, resident of village- Guniwanti, P.S.- Bousi Basethi, District- Araria.
3. Shri Dilip Singh son of Shri Shyamanand Singh, resident of village- Guniwanti, P.S.- Bousi Basethi, District- Araria.
4. Shri Gore Lal Singh son of Late Ram Prasad, resident of village- Basaithi, P.S.- Bousi, District- Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Prasad Ambastha, Advocate
For the Respondent/s : Mr. Yogendra Pd. Singh, Advocate
Mr. Rateneshwar Prasad, Advocate
Mr. Binod Kumar Bariar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 03-08-2018

Petitioner before this Court is plaintiff of Title Suit No.256 of 2007 pending in the court of Munsif, Araria. He has filed this application for quashing the order dated 22.01.2011 passed by the court below whereby and whereunder the respondent no. 4 was impleaded as defendant to the suit.

2. Heard learned counsels for the petitioner as well as respondent no. 4 and perused the record.

3. The petitioner being plaintiff has filed the aforesaid



suit against his father and two brothers for partition of land comprised in plot nos. 4949 and 4948 total area measuring 7 acre claiming 1/4th share. The intervenor-respondent no.4 claiming title over the suit property filed an intervenor petition which after hearing was allowed.

4. The learned counsel for the petitioner submitted that the intervenor had or has no concern with the land in dispute. The grandfather of this petitioner had filed a title suit bearing No.1670 of 1961 against the intervenor and his family members. The said suit was compromised and the respondent no 4 and his father admitted the right, title and interest of the grandfather of the petitioner over the suit property. The said compromise decree is final and is binding on the intervenor-respondent no. 4. The respondent no. 4 also filed a title suit bearing No. 740 of 1995 against the father of the petitioner for declaration of his title claiming 1/3rd share which was dismissed in default. The judgments and orders passed in Title Suit No.1670 of 1961 and Title Suit No. 740 of 1995 are final, as the same have not been set aside by any competent court. The respondent no. 4 has, thus, no locus standi to intervene in the suit and the order impleading the respondent no. 4 as party to the suit is fit to be set aside.

5. The learned counsel for the respondent no. 4, on the other hand, submitted that the land in dispute stands recorded in the



name of his mother along with other recorded tenants. After the death of mother, the petitioner has inherited her interest in the suit property. The court below has rightly impleaded the respondent no. 4 as party to the suit and so the present application is fit to be dismissed.

6. On going through the documents on record which are annexed with this application, I find that the ancestor of the petitioner had filed Title Suit No. 1670 of 1961 against the intervenor-defendant. The said suit was decreed in terms of compromise as per judgment dated 23.06.1962. The intervenor-defendant has not challenged the judgment and decree passed in Title Suit No. 1670 of 1961. The intervenor-defendant had further filed Title Suit No. 740 of 1995 claiming his title and share in the suit property which was dismissed. The intervenor-defendant, having full knowledge about the compromise decree passed in the year 1962, has not challenged the said decree. The claim of respondent no. 4 in view of judgment passed in Title Suit No. 1670 of 1961, has no locus standi to intervene into the matter. The learned court below has simply considered the entry of the name of mother of respondent no. 4 in khatiyan and allowed his prayer. In the impugned order, I find that the court below has not discussed the judgment and decree passed in Title Suit No. 1670 of 1961 and Title Suit No. 740 of 1995 which were decided against the intervenor-defendant. The claim of respondent no.4 in face of above



judgment and order for impleading him as party to the suit is not sustainable.

7. In view of above discussion, the impugned order dated 22.01.2011 is set aside and this application is accordingly allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.08.2018
Transmission Date	N/A

