

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21961 of 2011

=====

Md. Taiyabbul Haque Son Of Late Wazuak Haque Resident Of Village-Saharsa Basti Under Municipality, Ward No. 31, P.S. And District-Saharsa.

.... Petitioner/s

Versus

1. Guddu Kumar Sah Son Of Late Shiv Nandan Sah Resident Of College Gate, Sagar Hardware Shop Under Municipal Council, P.S. and District-Saharsa.
2. Nageshwar Prasad Son Of Late Munnilal Yadav Resident Of Dumrail, Ward No. 34, P.S. and District-Saharsa.
3. Md. Haider Son Of Late Sanif Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
4. Anful Son Of Late Yusuf Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
5. Ibrahim Son Of Late Yusuf Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. And District-Saharsa.
6. Maksood Son Of Late Nehayat Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
7. Mansoor Son Of Late Nehayat Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
8. Maskoor Son Of Late Nehayat Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
9. Firoz Son Of Late Sahtab Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
10. Azad Son Of Late Sahtab Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
11. Md. Chand Son Of Late Kuddus Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
12. Salam Son Of Late Salim Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
13. Moshim Son Of Late Muslim Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
14. Aslam Son Of Late Mustim Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
15. Md. Batir Son Of Sheikh Sameej Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
16. Md. Nasir Son Of Sheikh Sameej Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
17. Md. Tasir Son Of Shekh Sameej Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
18. Md. Shamim Son Of Late Amij Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-



Saharsa.

19. Md. Salauddin Son Of Abdul Suhan Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.
20. Md. Sehrab Son Of Late Sheikh Mehrab Resident Of Village-Saharsa Basti, Ward No. 31, Survey Ward No. 11, Under Saharsa Municipality, P.S. and District-Saharsa.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. AMARNATH JHA

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 06-08-2018

The petitioner before this Court is plaintiff of Title Suit No.256 of 2009 pending in the Court of Sub Judge-I, Saharsa. He has filed this application for setting aside the order dated 25.04.2011 passed by learned court below whereby and whereunder the intervenor petition filed by respondent nos.3 to 14 was allowed and they were impleaded as defendants to his suit.

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

3. It appears that the present petitioner filed title suit before the court below for declaration of his title over the land mentioned in schedule-2 of the plaint besides some ancillary reliefs. The respondent nos.3 to 14 filed an application under Order 1 Rule 10 of the CPC claiming right tile and interest in the suit property. The intervenors in their petition have asserted that the cadastral survey plot no.1712 of Khata No.816 area 1 bigha, 6 kathas and 12 dhurs originally belong to Hussaini and after his death his three sons, namely, Chhitan, Umar Baksh and Mustafa came in possession over the said land. After the death of all the aforesaid three brothers, their heirs partitioned the said property in the year 1941. The petitioners claim to be heirs of Umar Baksh and Mustafa. The plaintiff on the other hand claims to be heir of Chhitan. This fact has not been



denied by the petitioner. The intervenors in their written statement have further asserted that they are in possession of the suit property and in due course, the sons and daughter of Chhitan have sold some of the land in favour of different persons. The learned court below prima-facie considering the interest of the intervenors has impleaded them as party to the suit. It is well settled that the persons who have interest in the suit property is necessary to party to the suit as no effective order/judgment can be passed in the absence of necessary party.

4. In view of the above facts, I find that the court has not exceeded its jurisdiction in impleading the respondent nos. 3 to 14 as defendants to the suit. This application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.08.2018
Transmission Date	N/A

