

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.1251 of 2016

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1. Ram Lagan Prasad
 2. Bhola Prasad @ Bhola Ram
 3. Dilip Kumar @ Dilip Prasad
 4. Lal Babu Kumar @ Lal Babu Ram all sons of Mr. Chote Lal All residents of Village- Mitwan, P.O. & P.S.- Silao, District- Nalanda.

.... Petitioners

Versus

1. Bishun Sao son of Late Chotu Sao
2. Sunil Kumar
3. Anil Kumar
4. Sudhir Kumar
5. Sudarshan Kumar @ Munna Kumar all sons of Bishun Sao
6. Manish Kumar minor son of Bishun Sao, under the guardianship of his father Bishun Sao All residents of Village- Kadah, P.O. & P.S.- Silao, District- Nalanda.
7. Jawahar Lal Sao son of Late Aganu Sao resident of Village- Haidarganj Kadah Bazar, P.O. & P.S.- Silao, District- Nalanda.
8. Chote Lal Sao son of Late Baldev Ram resident of Village- Mitwan, P.O. & P.S.- Silao, District- Nalanda.
9. Most. Rajni Devi wife of Late Nandu Ram resident of Village & P.O.- Oyiyaon, P.S.- Asthawan presently Sare, District- Nalanda.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Sourendra Pandey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 16-03-2018

Heard both sides.

Petitioners have filed this Civil Miscellaneous petition against the order dated 06.09.2016 passed in T.S. No.76 of 2009 by which, learned Sub Judge-VI, Nalanda at Biharsharif allowed the Intervener petition filed on behalf of the respondent no.1 to 6, holding that the petitioners and the defendants are the descendents of common



ancestor Jhallu Sao. The petitioners are the plaintiffs.

Learned counsel for the petitioners submits that the petitioners filed the suit for declaration of title over the suit land. Jawahar Lal Sao, defendant no.1 executed the sale deed on behalf of Chote Lal Sao. Earlier Chote Lal Sao, son of Baldev Ram, respondent no.8 executed deed of Power of Attorney to look after his land in favour of Jawahar Lal Sao, in pursuance thereof, Jawahar Lal Sao executed sale deed in favour of Most. Rajni Devi, respondent no.9 and Most. Rajni Devi executed the sale deed in favour of the mother of the petitioner Ram Lagan Prasad. The interveners, respondent no.1 to 6 are not the agnates of the family of Chote Lal Sao, son of Baldev Ram and they are not at all interested or entitled to contest the suit but without looking into the facts, learned Sub Judge allowed the intervenor petition. It is submitted that this is choice of the plaintiffs to seek relief and make defendant against whom seek relief but the plaintiffs cannot be compelled to seek relief and make stranger a defendant in the suit.

On the contrary, learned counsel for the respondent no.2 to 6 submitted that the respondent nos. 1 to 6 are descendents of common ancestor Jhallu Sao but learned counsel for the respondents has not been able to point out that Chote Lal Sao, respondent no.8 son of Baldev Ram belong to the family of Jhallu Sao. It appears from



perusal of genealogical table (Annexure2) of this petition that Jhallu Sao got two sons namely Aganu Sao and Chotu Sao. Jawahar Lal Sao is son of late Aganu Sao and Bablu Sao is son of Late Jawahar Lal Sao. Chotu Sao got two sons namely Bishun Sao and Heera Sao. The interveners are sons of Bishun Sao but this Chotu Sao is not son of Baldev Ram. Chote Lal Sao, son of Late Baldev Ram executed power of attorney to look after the land in favour of Jawahar Lal Sao, who executed the sale deed with regard to land of Chote Lal Sao.

Therefore, I find that the learned Sub Judge-VI, Nalanda at Biharsharif, has committed jurisdictional error and illegality in allowing the intervener petition of respondent nos. 1 to 7 and implead them as defendants.

Accordingly, the order dated 06.09.2016 is set aside and the intervener petition is consequently dismissed.

The Civil Miscellaneous petition is, accordingly, allowed.

(Prabhat Kumar Jha, J)

Amit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.03.2018
Transmission Date	NA

