

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18879 of 2014

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Dheeraj Kumar son of Late Kapildeo Singh, resident of Mohalla Bari Milki, P.S. Rajgir, District Nalanda.

.... Petitioner

Versus

1. Dhananjay Kumar son of Sri Lal Narayan Singh, resident of Village & P.O. Arap, P.S. Birkam, District Patna.
2. Kaushalya Devi wife of Raghubanshi Prasad, resident of Village Shyam Nagar, P.O. & P.S. Khizar Sarai, District Gaya.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Jitendra Kishore Verma, Advocate
Mr. Abhishek Anand, Advocate
Mr. Pankaj Maijorwar, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 19-06-2018

Heard learned counsel for the petitioner and perused the record.

2. The petitioner has filed this writ application for quashing the order dated 03.06.2014 passed by Subordinate Judge III, Patna in Title Suit No.136 of 2013 whereby and whereunder the petition filed under Order I Rule 10 read with Section 151 of the C.P.C. to implead him as party to the suit was rejected.

3. The respondent no.1 before this court has filed a Title Suit No.136 of 2013 against respondent no.2 for specific performance of contract on the basis of registered deed of agreement for sale dated 05.11.2011. The plaintiff has alleged that the respondent no.2 being owner of suit property executed a registered deed of agreement to sell the same for a total consideration of Rs.6 lacs. The plaintiff in pursuance of the said contract paid a sum of Rs.1.5 lacs and it was



agreed that the sale deed would be executed by the respondent no.2 within six months of the agreement. The petitioner before this court filed an intervenor petition alleging that the suit property was purchased by his father in the name of respondent no.2. The deed of agreement was not executed by the real owner and so the petitioner being the real owner of the premises is necessary party to the suit. I find that the premises in question stands in the name of respondent no.2 who entered into an agreement with the plaintiff (respondent no.1) to sell the same for a total consideration of Rs.6 lacs. The respondent no.2 executed a registered deed of agreement in favour of respondent no.1. The court below while rejecting the intervenor petition has observed that the claim of intervenor regarding benami purchase in the name of respondent no.2 cannot be adjudicated in a suit for specific performance of contract. The court below considering the nature of dispute between the respondents has observed that the petitioner is not necessary party to the suit and has accordingly rejected the intervenor petition.

4. In above of above facts and circumstances, I do not find any merit in the present application and is accordingly dismissed.

Harish/-

(Sanjay Kumar, J)

AFR/NAFR	
CAV DATE	
Uploading Date	22.06.2018
Transmission Date	

