

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9851 of 2010

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Hari Narayan Pandey S/O Madheshwar Pandey R/O Vill.- Dharupur, P.S. Bikramganj, Distt.- Rohtas At Present Residing At Suraj Dress And Suraj Shoe Centre, Tenduni Chowk, Ara Road, Bikramganj, P.S. Bikramganj, Distt.- Rohtas

.... Petitioner

Versus

1. Radhe Shyam Singh S/O Sri Rang Bahadur Singh R/O Vill. And P.O. Dharupur, P.S. Bikramganj, Distt.- Rohtas
2. Bhola Prasad S/O Late Hari Sah R/O Tenduni Chowk, Bikramganj, P.S. Bikramganj, Distt.- Rohtas

.... Respondents

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Appearance :

For the Petitioner : Mr. Rewti Kant Raman, Advocate.
For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

8 10-01-2018

The instant writ application has been filed for quashing the order dated 04.05.2010 passed by Sub Judge-VI, Bikramganj in Title Suit No.556 of 2005 whereby and whereunder the petition filed under Order 1 Rule 10(2) of the CPC by this petitioner for impleading him as defendant no.2 to the suit was rejected.

2. Heard learned counsel for the petitioner. Nobody appeared for the respondents in spite of service of notice.

3. The respondent no.2 (plaintiff) filed a suit for specific performance of contract act against the respondent Bhola Prasad on the strength of a deed of agreement alleged to be executed by respondent no.2 in his favour. The petitioner on knowledge about the suit filed a petition for impleading him as party to the suit which after hearing was rejected. It has been submitted that the petitioner had purchased the disputed land by virtue of registered



sale deed dated 03.06.2005, i.e., much prior to the filing of the suit. The respondents in order to avoid the sale deed and grab the suit land has filed the suit for specific performance of contract on the basis of fabricated deed of agreement.

4. This petitioner admittedly has purchased the suit property much prior to institution of the suit. The agreement of sale is being challenged by the petitioner also and so the petitioner's presence before court below is necessary for proper adjudication. This petitioner has direct interest in the subject matter of suit as he claims title on the basis of registered sale deed which was executed in his favour by respondent no.2 much prior to the filing of the suit. The controversies between the parties cannot be effectively adjudicated in absence of the petitioner. In this regard, the learned counsel for the petitioner relied on ruling reported in 2013(2) PLJR 815 wherein in similar circumstance the impleadment of bonafide purchasers as party to the suit was upheld by this Court.

5. In view of above proposition of law, facts and circumstances of the case, the impugned order refusing to implead the petitioner as party to the suit is set aside and this petitioner is ordered to be impleaded as party to the suit.

6. This application is allowed.

B.Kr./-

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(Sanjay Kumar, J)

