

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18932 of 2013

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Renu Devi Wife Of Shri Gopal Prasad Resident Of Village- Godhiya
Chaman, Police Station- Bhagwanpur (Lalganj), District- Vaishali

.... Petitioner

Versus

1. Yogendra Sah Son Of Late Pathalu Sah Resident Of Village- Godhiya
Chaman, P.O. & P.S.- Bhagwanpur, District- Vaishali
2. Mosomat Parvati Devi Wife Of Late Hira Singh Resident Of Village-
Godhiya Chaman, P.O. & P.S.- Bhagwanpur, District- Vaishali
3. Ramchandra Sah Son Of Late Budhu Sah Resident Of Village- Godhiya
Chaman, Police Station- Bhagwanpur, District- Vaishali
4. Dhurandhar Sah Son Of Late Sukhit Sah Resident Of Village- Godhiya
Chaman, Police Station- Bhagwanpur, District- Vaishali
5. Manoj Kumar Sah Son Of Late Shivji Sah Resident Of Village-
Godhiya Chaman, Police Station- Bhagwanpur, District- Vaishali
6. Baliram Sah Son Of Late Kalicharan Sah Resident Of Village- Godhiya
Chaman, Police Station- Bhagwanpur, District- Vaishali
7. Laxhmi Narayan Gupta Son Of Late Rupchan Sah Resident Of Village-
Godhiya Chaman, Police Station- Bhagwanpur, District- Vaishali
8. Jai Narayan Gupta Son Of Late Rupchan Sah Resident Of Village-
Godhiya Chaman, Police Station- Bhagwanpur, District- Vaishali

.... Respondents

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Appearance :

For the Petitioner : Mr. Madan Jeet Kumar, Advocate

For the Respondents : Smt. Anuradha Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

3 08-01-2018 This application has been filed to set aside the order dated 17.07.2013 passed by learned Sub Judge-VI, Vaishali at Hajipur in Title Suit No.232 of 2009 whereby and whereunder the petition filed by this petitioner to implead her as party to the suit was rejected.

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

3. The respondent no.1 filed a Title Suit against



respondent no.2. During the pendency of the suit, the petitioner purchased land from the respondent no.2. The said land is also the subject matter of partition suit. The petitioner has asserted that she had no knowledge about the pendency of the suit. The petitioner having come to know about the suit, filed a petition for impleading her as party under the provision of Order 1 Rule 10(2) of the CPC. The court below after hearing both sides rejected the petition. The said order has been challenged by this petitioner.

4. Learned counsel for the petitioner submits that the petitioner has purchased the land from Parvati Devi after paying valuable consideration and so she has right to protect her interest. The other purchasers from said Parvati Devi are on record as defendants 2nd party. The learned counsel for the respondents on the other hand submits that the petitioner cannot be impleaded as party to the suit as the sale deed of the petitioner is hit by the principle of lis pendens. The petitioner has purchased a litigation and wants to create complication in disposal of the suit.

5. The learned counsel for the petitioner has referred as ruling reported in (2013) 5 SCC 397 (Thomson Press (India) Ltd vrs. Nanak Builders and Investors(P) Ltd. The Hon'ble Apex Court at paragraph-26 has held that it is well settled that the doctrine of lis pendens is a doctrine based on the ground that it is



necessary for the administration of justice that the decision of a Court in suit should be binding not only on the litigating parties but on those who derive title *pendente lite*. The court, however, held that the provisions of Section 52 of the Transfer of Property Act did not indeed annul the conveyance or the transfer otherwise, but render it subservient to the rights of the parties to a litigation. It further held in paragraph-30 that in the light of settled principles of law on the doctrine of *lis pendens*, Order 1 Rule 10(A) of the Code of Civil Procedure empowers the court to add any person as party at any stage of the proceedings if the person whose presence before the court is necessary for effective adjudication of the issue involved in the suit. In that case though the court held that the transaction by the intervener was a clandestine transaction and, therefore, not a bonafide purchaser but the Supreme Court held that being transferee *pendente lite* he was to be added as a party to the suit.

6. In view of above, the impugned order dated 17.07.2013 passed in Title Suit No.232 of 2009 by learned Sub Judge-VI, Vaishali at Hajipur is set aside.

7. The petitioner is directed to be impleaded as a party defendant in Title Suit No.232 of 2009 pending in the court of learned Sub Judge-VI, Vaishali at Hajipur. It is however, clarified



that as a result of his impleadment, the petitioner can raise and pursue only such evidence as available and taken by the defendant no.2 and none other.

8. This writ application is, accordingly, allowed.

(Sanjay Kumar, J)

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