

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1005 of 2016

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1. Gangawati Kuer W/o late Baikunth Rai
2. Ranjeet Rai@ Ranjeet Kumar S/o Late Baikunth Rai Both Resident of Village- Jasauli Pakauli, P.O. and P.S. - Pachrukhi, District- Siwan.

.... Appellant/s

Versus

1. Kamlawati Devi W/o Amit Ram@ Krishna Ram Resident of Village- Dhumnagar, P.S. Hussainganj, District- Siwan, at Present resident of Jasauli Pakauli, P.O. and P.S. Pachrukhi, District- Siwan.
2. Munna Rai S/o late Baikunth Rai
3. Jhunna Rai S/o late Baikunth Rai Both Resident of Village- Jasauli Pakauli, P.O. and P.S. - Pachrukhi, District- Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ranjan Kumar Dubey
For the Respondent/s : Mr. Waliur Rahman, advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

5 12-10-2018 Heard both sides.

The petitioners have filed this Civil Misc. petition against the order dated 12.07.2016 passed by Munsif-I, Siwan in Title Suit No. 9 of 2012 by which the petition of the petitioners filed under Order 1 Rule 10 (2) of the Code of Civil Procedure for impleading the Collector and the Circle Officer as defendants has been rejected.

The learned counsel for the petitioners submits that plaintiffs/ petitioners filed the suit for declaration of right and title and for restraining the defendant from making construction over the suit land. During the pendency of the suit the plaintiffs filed



petition for amendment of plaint that Basgit Parcha issued in favour of defendant is not binding on the plaintiffs as the same has been issued behind their back and, accordingly, they also prayed for impleading the Collector and Circle Officer as defendants as they are necessary party since they issued Basgit Parcha in favour of defendant. The learned Munsif allowed the amendment petition but at the same time erroneously rejected the petition of the plaintiffs/ petitioners for impleading the Collector and Circle Officer as defendants. It is submitted that it is prerogative of the plaintiffs to implead a person in accordance with relief sought for by them in the plaint. Since the plaintiffs have filed the suit for declaration of title over the land and for restraining the defendants from making any construction over the disputed land and by way of amendment they also sought relief that the Basgit Parcha granted to the defendant is not binding on the plaintiffs, in this view of the fact the authorities who issued the Parcha without following the procedure and without noticing the plaintiffs/ landlord, are necessary parties but the learned Munsif rejected the petition.

The learned counsel for the respondents submits that the Collector and Circle Officer are not necessary party in the suit.

From the submissions of both sides and on perusal



of records, I find that the plaintiffs have filed the suit for declaration of right and title and for restraining the defendant from making any construction over the suit land. The plaintiffs by way of amendment added relief for declaration that the Basgit Parcha issued by the Circle Officer and the Collector in favour of defendant is not binding as the same has been issued without any notice to the plaintiffs and behind their back. Therefore, I find that for the relief that issuance of Parcha is without jurisdiction, the Circle Officer and the Collector are necessary parties but the learned Munsif has erroneously rejected the petition of the petitioners for impleading them as party in the suit.

Accordingly, the order dated 12.07.2016 is set aside and the Collector and the Circle Officer are directed to be impleaded as defendants in the suit. Thus, this Civil Misc. petition is allowed.

(Prabhat Kumar Jha, J)

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