

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.699 of 2018

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1. Dr. S. N. Azad @ Sheonath Azad Baudh Son of late Bhekhu Singh
Resident of Village- Mor, Police Station- Shivsagar, District- Rohtas.

.... Petitioner/s

Versus

1. Abhishek Kumar Verma Son of Sri Satyendra Kumar Verma Resident of
Village- Mahthin Tola, Post Office- Baligaon, Police Station- Ayar,
District- Bhojpur, At Present resident of Mohalla- Dharmshala Road, Near
Girls High School Sasaram, Post Office+Police Station- Sasaram, District-
Rohtas.

2. Satyendra Kumar Verma Son of late Lakhan Prasad Verma

3. Abhay Pratap Verma

4. Baiju Kumar Verma

5. Apolo Verma

6. Ambedkar Ranjan Sons of Sri Satyendra Kumar Verma

7. Sabita Kumari

8. Pratima Kumari

9. Sima Kumari

10. Hemlata Verma Daughter of Sri Satyendra Kumar Verma All are
Resident of Village- Mahthin Tola, Post Office- Baligaon, Police Station-
Ayar, District- Bhojpur, At Present resident of Mohalla- Dharmshala Road,
Sasaram Near Girls High School, Sasaram, Post Office+Police Station-
Sasaram, District- Rohtas.

11. Madan Mohan Verma

12. Devendra @ Dadan Verma Both Sons of late Keshaw Prasad Verma

13. Ramesh Kumar Verma

14. Suresh Kumar Verma

15. Rajesh Kumar Verma Sons of late Birendra Verma All are residents of
Village- Mahthin Tola, Post Office- Baligaon, Police Station- Ayar,
District- Bhojpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajani Kant Singh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

2 25-09-2018 Heard learned counsel for the petitioner and learned
counsel for the respondent No.1.

The petitioner has filed this civil miscellaneous petition



against the order dated 14.03.2018 passed by Sub Judge XIII, Sasaram in Title Suit No.184 of 2014 by which the petition of the petitioner for his impleadment as defendant has been rejected.

The plaintiff filed Title Suit No.184 of 2014 for partition of the property. During the pendency of the suit, the petitioner-intervener purchased the land from defendant No.4, Baiju Kumar Verma and defendant No.17, Sangeeta Devi @ Sangeet Verma on 22.04.2014 and thereafter the petitioner filed the intervention petition to allow him to be impleaded as defendant. Learned Sub Judge by the impugned order dated 14.03.2018 rejected the petition of the petitioner holding that the petitioner is purchaser during the pendency of the suit and on the basis of the principle of lis pendense, the petitioner shall enter into the shoes of his vendors, therefore, the petitioner is not a necessary party in the partition suit.

Learned counsel for the petitioner while assailing the order impugned submits that the suit is for partition and in the suit for partition, the purchaser is necessary party in order to get his interest protected.

Learned counsel for the respondent No.1 submits that the sale deed executed during the pendency of the suit is hit by principle of lis pendense and the petitioner is not a necessary party



but I find that the suit is for partition and during the partition suit, the petitioner purchased the land from defendant Nos.4 and 17. Therefore, the petitioner is necessary party in order to protect his interest to show that the lands purchased by him from defendant Nos.4 and 17 be allotted in the share of defendant Nos.4 and 17. Accordingly, I find that learned Sub Judge has committed jurisdictional error while dismissing the petition.

Thus, the order dated 14.03.2018 is set aside and this civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

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