

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1192 of 2017

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1. Ram Nath Rai Son of late Dwarik Rai Resident of Village and
P.O.Rasalpur Fatah, P.S. Goraul, District Vaishali..... Appellant/s

Versus

1. Arun Kumar Son of late Mahendra Prasad Singh Resident of Village-
Bakhri Dowa, P.S. Goraul, District- Vaishali.

2. Ramdeo Prasad Son of Baldeo Prasad Resident of Village- Bakhri Dowa,
P.S. Goraul, District- Vaishali. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shri Nandan Prasad Singh
Mr. Navesh Nandan

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

2 10-08-2018

Heard the learned counsel for the petitioner.

The petitioner filed this Civil Misc. petition for setting aside the order dated 25.05.2016 passed by learned Sub Judge-II, in Title Suit No. 1080 of 2013 by which the petition of the petitioner for impleading him as defendant in the suit has been dismissed.

The learned counsel for the petitioner submits that the plaintiff/Arun Kumar filed the suit for specific performance of contract against Ramdeo Prasad. The petitioner also intends to purchase a piece of land from the husband of Laxmi, who entered into an agreement with the petitioner to sale the land. Baldeo Prasad had two wives. Baldeo Prasad got two sons namely, Ramdeo Prasad and Krishnadeo Prasad from first wife and one son Brahamdeo Prasad and one daughter, Laxmi from second



wife. The husband of Laxmi entered into an agreement to sale the land with the petitioner and, therefore, the petitioner is a necessary and proper party to the suit but it appears that plaintiff filed the suit against Ramdeo Prasad, who entered into agreement with the plaintiff to sale the property. In a case for specific performance of contract between the plaintiff and Ramdeo Prasad the petitioner is not a necessary party. Laxmi is entitled to get share in the property of Baldeo Prasad and if Laxmi is aggrieved she may file a suit for partition to carve out her share. In the suit for specific performance of contract the petitioner, who claims himself to be a necessary party by virtue of deed of agreement to sale between petitioner and husband of Laxmi, is not a necessary or proper party in the suit. The learned Sub Judge has rightly dismissed the petition of the petitioner.

Thus, I do not find any illegality or apparent error in the impugned order. This Civil Misc. petition is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

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