

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11731 of 2012

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1. Vishnu Bhagat Son Of Late Ram Rup Bhagat Resident Of Vill. - Ambai, P.S. Jagdishpur, Distt. Bhagalpur
 2. Asha Devi Wife Of Sri Bhudeo Das, D/O Late Ramrup Bhagat Resident Of Vill. - Ambai, P.S. Jagdishpur, Distt. Bhagalpur
 3. Punam Devi Wife Of Sri Umesh Das, Daughter Of Late Ramrup Bhagat Resident Of Vill.- Ambai, P.S. Jagdishpur, Distt. Bhagalpur

.... Petitioner/s

Versus

1. Gopi Bhagat Son Of Late Hari Bhagat Resident Of Village Ambai, P.S. Jagdishpur, Presently Habibpur, District Bhagalpur
2. Narendra Nath Bhagat Son Of Late Hari Bhagat Resident Of Village Ambai, P.S. Jagdishpur, Presently Habibpur, District Bhagalpur
3. Shambhu Nath Bhagat Son Of Late Hari Bhagat Resident Of Village Ambai, P.S. Jagdishpur, Presently Habibpur, District Bhagalpur
4. Rabikant Bhagat Son Of Late Hari Bhagat Resident Of Village Ambai, P.S. Jagdishpur, Presently Habibpur, District Bhagalpur
5. Ramo Devi Wife Of Late Hari Bhagat Resident Of Village Ambai, P.S. Jagdishpur, Presently Habibpur, District Bhagalpur
6. Bidya Devi Wife Of Janardan Das, D/O Late Hari Bhagat Of Village Kumarpur, P.O. Dumka, P.S. Dumka, District Dumka
7. Subhadra Devi Wife Of Suresh Das, D/O Late Hari Bhagat Of Village Kumarpur, P.O. Dumka, P.S. Dumka, District Dumka
8. Binod Kumar Son Of Sri Bhagwan Das And Late Anju Devi, D/O Late Ramrup Bhagat Of Village Guddarganj, P.S. Mojahidpur, District Bhagalpur
9. Anil Kumar Bhagat S/O Late Biro Bhagat Resident Of Mohalla Ambai, P.S. Habibpur, District Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. PRAVEEN KUMAR, Advocate.
For the Respondent/s : Mr. D.D.Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 04-04-2018

The plaintiffs of Title Suit No.02 of 2008 have filed this application for setting aside the order dated 13.04.2012 passed by Additional Munsif-III, Bhagalpur whereby and whereunder the petition filed by respondent no.8 for impleading him as party under



the provision of order 1 Rule 10 of the CPC was allowed.

2. Heard learned counsel for the petitioners and the respondents.

3. It appears that the petitioners filed the aforesaid suit for declaration that the defendants have got no legal right to repurchase or redeem the suit property from the plaintiff as the plaintiffs have become absolute owner of the property. The respondent no.8 claiming to be the son of Biro Bhagat who was grand father of plaintiff filed the petition claiming interest in the suit property. According to him the suit property was acquired by the aid of joint family fund and so he has also right in the suit property. The learned court below after hearing both sides allowed the petition and impleaded him as co-plaintiff. The learned counsel for the petitioners relying on ruling reported in Patna Law Reporter 1999, Patna page-9 has submitted that the intervenor defendant whose claim is being denied by the petitioners cannot be impleaded as co-plaintiff against the wishes of this petitioner.

4. After going through the submission of learned counsels, I find that the respondent no.8 is claiming to be one of the co-sharer of the plaintiffs. As the petitioners had opposed the prayer of intervenor for impleading him as party to the suit, the court below ought not to have impleaded him as co-plaintiff. It is true that one can



be added as party to the suit if he has interest in the suit property but cannot be added as co-plaintiff against the wishes of the plaintiff. The plaintiff being the *dominus litus* is at liberty to proceed with their suit in their own ways as per provision of law and so the court below has committed error in impleading him as co-plaintiff.

5. In view of above fact, the impugned order impleading the respondent no.6 as plaintiff is not sustainable and is accordingly modified. The respondent no.8 instead of co-plaintiff, is ordered to be impleaded as defendant to the suit. This application with the above observation is disposed of.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	AFR
CAV DATE	N/A
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