

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.32 of 2017

IN

C. Misc. 1208 of 2016

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1. Smt. Nilu Devi @ Nilu Kumari @ Nila Devi, Wife of Sri Binay Prasad.

2. Smt. Anita Devi, Wife of Sri Ashok Prasad.

Both Resident of Mauza-Parsa Garh, Police Station-Ekma, District-Saran (Chapra).

.... Petitioner/s

Versus

1. Sri Dinanath Prasad, Son of Late Daya Sah.

2. Sri Shankar Prasad, Son of Late Devki Sah.

Both Resident of Parsa Garh Bazar, Police Station-Ekma, District-Saran (Chapra).

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Narayan Singh, Sr. Adv.
Mr. R.N. Poddar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 17-01-2018

Despite service of notice, there is no representation on behalf of the contesting opposite parties.

2. Heard learned Senior Counsel for the petitioners.

3. The petitioners seek review of an order, dated



28.11.2016, passed in Civil Miscellaneous No. 1208 of 2016, whereby, this Court had rejected an application filed by the petitioners against the order, dated 06.09.2016, passed by learned Munsif-I, Saran at Chapra in Title Eviction Suit No. 150 of 1996, whereby, the learned court below has rejected the intervention application filed by the petitioners.

4. It appears that the eviction suit was filed by the plaintiffs against the defendants under Bihar Building (Lease, Rent and Eviction) Control Act, 1982 (*in short 'the Act'*). The petitioners claimed that they had purchased the suit land in the years 2012 and 2014. It was, accordingly, the stand of these petitioners that they, being purchasers *pendente lite*, should be added as parties.

5. This Court, *vide* order, dated 28.11.2016, dismissed the said application, holding that the scope of enquiry, in a suit for eviction, would have been as to whether the ground for eviction of the defendants could be made out under the Act or not.

6. In the present application, seeking review of the order, dated 28.11.2016, a plea has been taken that though the original suit was filed for eviction, but subsequently the said was converted to a regular title suit on the prayer of the plaintiffs/opposite parties and the plaintiffs/opposite parties sought for declaration of title for which *ad valorem* Court fee



was also paid. No instruction was, however, given to learned Counsel on this aspect that the eviction suit stood converted to a regular title suit, leading to passing of the order under review.

7. Learned Senior Counsel, appearing on behalf of the petitioners, has placed heavy reliance on a Supreme Court's decision in case of ***Amit Kumar Shaw and Another Vs. Farida Khatoon and Another***, reported in ***A.I.R. 2005 SC 2209***, and has submitted that the petitioners, being purchasers *pendente lite* having acquired interest in the suit property, are proper parties and they should have been allowed to intervene in the said suit proceeding before the court below.

8. Learned Senior Counsel, appearing on behalf of the petitioners, has also submitted that impleadment of these petitioners would not cause any delay in disposal of the suit inasmuch as the petitioners cannot take any stand different from what has been taken by the defendants, who are the petitioners' vendors.

9. Since there is no opposition to the prayer made in this application and I find substance in the submission so advanced on behalf of the petitioners, the civil review application is allowed. The order, dated 28.11.2016, stands recalled, since it is evident that the said order was passed



since a crucial fact, essential for just adjudication of the case, was not brought to the notice of the Court while passing of the order.

10. Further, I am of the view that since it is the case of the petitioners that they are purchasers, they having acquired substantial interest in the suit property and should have been allowed to be impleaded as defendants in the said suit. Accordingly, the order, dated 06.09.2016, passed by the learned Munsif-I, Saran at Chapra, in Title Eviction Suit No. 150 of 1996, is set-aside and it is directed, in the interest of justice, to implead these petitioners as party-defendants in Title Eviction Suit No. 150 of 1996.

11. The petitioners will not be required to file any written statement and will pursue their case on the written statement already filed by their vendors and at no point of time they shall take any stand inconsistent with the stand of their vendors.

12. This application is allowed with the observation as above.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24/01/2018
Transmission Date	N/A

