

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1772 of 2017**

Hafeez Nat, Son of Late Dhun Mun Nat, resident of Village Naubatpur, Tarbanna, P.S. Naubatpur, District- Patna.

... .. Petitioner (Intervenor in the court below)
Versus

1. Ajim Nut.

2. Salim Nut.

Both sons of Late Gultan Nat, Both residents of Village Naubatpur Tarbana, P.S. Naubatpur, District- Patna.

Respondents (Plaintiffs in the court below)

3. The State of Bihar through the Collector, Patna, P.O. Collectorate, P.S. Gandhi Maidan, District- Patna.

4. The Circle Officer, P.O. and P.S. Naubatpur, District Patna.

... .. Respondents (Defendants in the court below)

Appearance :

For the Appellant/s : Mr. Ajay Kumar

For the Respondent/s : Mr. Rishi Raj Sinha -Sc19

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER**

2 07-12-2018

Heard the learned counsel for the petitioner.

The petitioner has filed this civil miscellaneous petition to set aside the order dated 27.07.2017, passed by learned Sub-Judge-III, Danapur in Title Suit No.15 of 2008 whereby the learned Sub-Judge rejected the petition of the petitioner filed under Order I Rule 8 (3) read with Section 151 of the Code of Civil Procedure for impleading him as defendant in the suit.

The relevant facts can be summarized as follows:-

the plaintiffs-respondents no.1 and 2 filed Title Suit No.15 of 2008 for declaration of title over the property mentioned in Schedule II of the plaint. The plaintiffs stated that



the cause of action arose on 28.02.2007 when the State of Bihar and the Circle Officer, Naubatpur, respondents no.3 and 4 demolished the portion of the house of the plaintiffs in pursuance of the order passed in Encroachment Case No.08 of 2005-2006.

The petitioner is one of the members of the Working Committee of Sadar Anjuman Falahul Muzahmeen Committee, Naubatpur and he has been entrusted with the responsibility of looking after the land of Kabristan situated over Plot No.3757 and 3755 of Khata No.586 situated at Mauza Ibrahimpur Tarbanna, P.S. Naubatpur, District Patna. The petitioner filed petition to implead him as defendant to protect the interest of general public belonging to Muslim community. The plaintiffs filed rejoinder denying the facts of any structure of the plaintiffs on the land of Kabristan. The learned Sub-Judge rejected the petition of the petitioner holding that the petitioner claimed that Kabristan is situated in Plot No.3757 and 3755 of Khata No.586, Thana No.160 situated in Naubatpur, District Patna but the plaintiffs sought declaration of title over Plot No.3755 of Khata No.536, therefore, the lands of Plot No.3755 of Khata No.586 is not subject matter of the suit and petitioner is not at all entitled to be impleaded as party-defendant in the case and



rejected the petition of the petitioner vide order dated 27.07.2017.

Learned counsel for the petitioner submits that on Plot No.3755 of Khata No.537, area 38¼ decimals out of 74 decimals, there is a Kabristan but on query and with reference to the petition filed by the petitioner for his impleadment in the suit, the petitioner could not be able to show the lands of that Kabristan situated on Plot No.3755 of Khata No.537, therefore, I find that the learned Sub Judge has rightly rejected the petition of the petitioner for his impleadment in the suit.

Having considered the facts aforesaid, I do not find any merit in this civil miscellaneous petition and the same is dismissed accordingly.

(Prabhat Kumar Jha, J)

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