

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1029 of 2017**

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1. Arfa Khatoon, wife of Late Arif Ahmad Khan, resident of Village-
Kuraipur, P.S. Obra, District- Aurangabad. Appellant/s

Versus

1. Jawaid Ahmad Khan, son of Late Wasi Ahmad Khan, Resident of
Mohalla- Club Road, Aurangabad Near Madarsa Islamiya Aurangabad,
P.O.+ P.S.+ District- Aurangabad. (Bihar) At present by profession
practicing Lawyer at Civil Court, Aurangabad (Bihar).

2. Hussain Miyab, son of Late Fateh Mohammad, Bengal Tent House, Obra
Main Road, Near Kali Mandir, P.O.+ P.S. Obra, District- Aurangabad.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Fahimuddin

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

2 13-07-2018

Heard the learned counsel for the petitioner.

The petitioner has filed this Civil Misc. petition
against the order dated 07.04.2017 passed in Eviction Suit No. 02
of 2015 by which the petition of the petitioner filed under Order I
Rule 10(2) of the Code of Civil Procedure has been dismissed.

The plaintiff filed the suit against Hussain Miyan,
the defendant, for eviction. During the pendency of the suit the
petitioner filed a petition Order I Rule 10(2) of the Code of Civil
Procedure to implead her as defendant and stated that she
purchased the suit premises through registered sale deed from Bibi
Rabiya Khatoon, Anwar Ahmad Khan and Sultan Akhtar Khan.
She inducted the defendants in suit premises and the defendants
are regularly paying rent to her.



The sole question arises for consideration as to whether the petitioner is necessary party or proper party in the suit for eviction?

Admittedly, the plaintiff filed the suit for eviction against the defendant. The defendant filed written statement but during the pendency of the suit the petitioner filed a petition to implead her as a party on the ground that she is the rightful owner of the suit premises and she inducted tenant in suit premises, therefore, she is a necessary party.

Necessary party is a person in absence of whom no effective judgement can be passed and proper party is a person whose presence the court feels necessary to enable the court to pass effective judgement. In this case the plaintiff filed the suit for eviction against the defendant. The petitioner also claimed title over the land. If the petitioner wants eviction she may file separate suit but in this suit she is neither a necessary party nor a proper party. Therefore, I do not find any illegality or jurisdictional error in the order impugned.

Accordingly, this Civil Misc. petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

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