

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13950 of 2014

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Banshidhar Mishra Son of Late Lutau Mishra, resident of Village & P.O.- Nabkarhi, P.S.- Arer, District- Madhubani.

.... Petitioner/s

Versus

1. Jaybeer Jha Son of Late Laxaman Jha Village- Nabkurhi, P.S.- Arer District- Madhubani.
2. Bhogendra Jha
3. Nagendra Jha Both Sons of Jaybeer Jha resident of Village- Nabkurhi, P.S.- Arer, District- Madhubani.
4. Bijay Kumar Mishra @ Kishlay Kumar Mishra
5. Abhay Chandra Mishra All sons of Banshidhar Mishra resident of village- Nabkarhi, P.S.- Arer, District- Madhubani.
6. Pashupati Data
7. Krishna Bihari Datta Both Sons of Late Pulkit Datta
8. Pawan Datta Son of Pashupati Datta
9. Sanjiv Kumar Datta
10. Arun Kumar Datta Both Sons of Krishna Bihari Datta All resident of Village - Nabkurhi, P.S.- Arer, District- Madhubani.
11. Chunni Pandit Son of Late Raghuni Pandit
12. Ram Bahadur Pandit
13. Ram Sagar Pandit Both Sons of Chunni Pandit
14. Mosamat Suryamukhi Devi Wife of Late Dukhi Pandit All residents of Village- Nabkarhi, P.S.- Arer, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Caudhary, Advocate
For the Respondent nos.2 and 3 : Mr. Sanjay Kumar Jha, Advocate &
Mr. Anant Kumar Bhaskar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 14-08-2018

Petitioner before this Court is defendant no.1 in Title Suit No.92 of 2010 pending in the Court of Sub Judge-IV, Madhubani. He has filed this application for quashing the order dated 08.05.2013 whereby and whereunder the petition filed by plaintiffs under Order 1 Rule 10(2) and Section 151 of CPC was allowed and the State of



Bihar was impleaded as defendants to the suit.

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

3. The respondent nos.1 to 3 have filed the aforesaid suit for declaration that the sale deed dated 18.09.2007 purported to be executed by Pasupati Datt and Krishna Bihari Datta in favour of defendant (petitioner before this Court) as forged, fabricated, null, void and abnatio. The plaintiffs further sought relief for confirmation of possession and recovery of possession with respect to land over which the defendant no.1 illegally constructed boundary-wall. The plaintiffs further sought relief to get the Khatian corrected by mentioning the name of plaintiffs. The plaintiffs filed petition under Order 1 Rule 10 read with Section 151 CPC for impleading the State of Bihar as party to the suit. According to respondents/plaintiffs, the State of Bihar is necessary party as the correction of Khatian has to be carried out by the State of Bihar.

4. The learned counsel for the petitioner on the other hand submits that before instituting the case against State of Bihar, the plaintiff ought to have given notice under section 80 of the CPC and so without giving notice under Section 80 of the CPC to the State of Bihar the order impleading the State as party to the suit is not sustainable and is fit to be set aside.



5. On going through the pleadings of both the parties, I find that this is a suit for declaration with respect to the sale deed executed in favour of the petitioner. The suit land according to both the parties is Raiyati land and the recorded tenants executed sale deed in favour of respondents/plaintiffs. The petitioner/defendant also claims title on the basis of registered sale deed. The State of Bihar has been impleaded at the instance of respondents/plaintiffs as the correction in Khatiyani in the event of decree of suit has to be carried out only by the State of Bihar. The learned court below considering the pleadings of both the parties and nature of dispute, has impleaded the State of Bihar as one of the defendants. In the impugned order, I find that the court below has not committed any jurisdictional error while impleading the State of Bihar as party to the suit without giving any notice under Section 80 of the CPC.

6. In view of above discussions, I find no merit in this application. This application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.08.2018
Transmission Date	N/A

