

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23607 of 2012

=====

Kameshwar Mishra son of Late Indradutt Mishra, resident of Village Basdiha
Pergana Siris, P.S. Baroon, District- Aurangabad.

.... Petitioner

Versus

1. Ved Prakash Rai son of Dudheshwar Rai, resident of Village Bairaon, P.O. Pararia, P.S. Simra, District- Aurangabad, at present Village- Aurangabad Ward No. 14, P.O./ P.S. and District Aurangabad.
2. Diwakar Rai son of Dudheshwar Rai resident of Village Bairaon, P.O. Pararia, P.S. Simra, District- Aurangabad, at present Village- Aurangabad Ward No. 14, P.O./ P.S. and District Aurangabad.
3. Dudheshwar Rai son of Late Brahamdeo Rai resident of Village Bairaon, P.O. Pararia, P.S. Simra, District- Aurangabad, at present Village- Aurangabad Ward No. 14, P.O./ P.S. and District Aurangabad.
4. Ajesh Kumar Bhatt son of Late Narsingh Rai, resident of F. 17 P.C. Colony, Kankarbagh, Patna.
5. Smt. Bimla Devi wife of Dudheshwar Rai resident of Village Bairaon, P.S. Kutumba (Simra), P.O. Pararia, District- Aurangabad, at present Village- Aurangabad Ward No. 14, P.O./ P.S./ District- Aurangabad.

.... Respondents

=====

Appearance :

For the Petitioner/s : Smt. Asha Verma, Advocate
Mr. Amarendra Kumar Singh, Advocate
For the Respondent/s : Mr. Raj Nandan Prasad, Advocate
Mr. Pankaj Maijorwar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT
Date: 10-09-2018

This writ application has been filed for quashing the order dated 17.07.2012 passed by learned Subordinate Judge III, Aurangabad in Title Suit No.50 of 2007/156 of 2011 whereby and whereunder the petition filed by this petitioner under Order 1 Rule 10 of C.P.C. to implead him as defendant was rejected.

2. Heard learned counsels for the petitioner as well as the respondents.



3. It appears that the petitioner filed an application for impleading him as party to the suit on the ground that he had already purchased 08 decimals land of Plot No.918 corresponding to C.S. Plot Nos.369 and 371 by virtue of registered sale deed no.14152 dated 01.08.1985. The plaintiff has filed the suit over 22 ¼ decimals land of Plot No.918. The learned court below while rejecting the prayer of the petitioner has observed that the sale deed of the petitioner relates to different plot and the same is not the subject matter of present suit. This observation is against the material on record. The petitioner claims to be bona fide purchaser in some plot by virtue of registered sale deed which was executed for about 22 years before the filing of the suit.

4. In view of above facts and circumstances, the impugned order refusing to implead him as party to the suit is not sustainable. The impugned order is accordingly set aside and the writ application is allowed. The court below is directed to give an opportunity to the petitioner to contest after impleading him as party to the suit.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.09.2018
Transmission Date	

