

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.680 of 2017

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Madan Singh son of Late Eswari Singh, Resident of Village-Biswania,
Pargana-Chaubar Dr. Biswania, P.S. Darauli, District-Siwan.

... .. Petitioner/s

Versus

1. Niranjana Singh, Son of Madan Singh Resident of Village-Biswania, Pargana-Chaubar Dr. Biswania, P.S. Darauli, District-Siwan
2. Sugriv Mali, Son of Ganesh Mali,
3. Rajendra Mali, Son of Dukhan Mali,
4. Smt. Hira Devi, Wife of Chandra Shekhar Singh,
5. Rudal Singh, Son of Kailash Singh
6. Bharat Singh Son of Kailash Singh
7. Durgawati Devi, Wife of Raghav Singh,
8. Hareram Singh, Son of Lalan Singh.
9. Smt. Kali Devi, Wife of Jagannath Singh, All Residents of Village-Biswania, Pargana-Chaubar Dr. Biswania, P.S. Darauli, District-Siwan
10. Fulmati Devi, daughter of Madan Singh
11. Babali Devi Daughter of Madan Singh
12. Rubi Devi Daughter of Madan Singh,
Res. Nos.10 to 12, All are resident of village-Biswania, Pargana-Chaubar Dr. Biswania, P.S. Darauli, District-Siwan.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Vijay Kumar Singh
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 30-11-2018 The learned counsel for the petitioner is permitted to correct the father's name of the petitioner in the cause title during the course of the day.

Heard learned counsel for the petitioner. Nobody appears on behalf of the respondent No.1 in spite of having receipt the notice.

The petitioner has filed this civil miscellaneous petition against the part order dated 18.02.2017 passed in Title



Suit No.127 of 2013 by Sub Judge 12th, Siwan by which the petition of the petitioner for impleading the purchasers of land from his son during the pendency of partition suit as defendants has been rejected.

The petitioner is the plaintiff. The petitioner filed the suit for partition of the suit property against his son. The petitioner filed amendment petition as well as petition under Order I Rule 10 C.P.C. for impleading the purchasers of the land from his son during the pendency of the suit. The amendment petition is that the lands sold by the defendant, in excess of his share, in favour of the purchasers be declared as illegal and void. The amendment is allowed but the prayer of the petitioner for impleading the purchasers as defendants in the case has been rejected. It is submitted that the purchasers are necessary party and in absence of the purchasers, the effective judgment and decree cannot be passed. It is prerogative of the plaintiff to sue the person against whom he seeks relief. During the pendency of the suit, the son of the plaintiff sold the land in excess of his share but the court below has allowed the amendment petition but refused to implead the purchasers as defendants in the case. I find that the purchasers are necessary party but the learned Sub Judge has committed jurisdictional error in rejecting the petition



of the plaintiff for impleading them as defendants. Accordingly, the order dated 18.02.2017 so far it relates to the rejection of the petition under Order I Rule 10 C.P.C. is set aside. The same is allowed. The purchasers are impleaded as defendants. Consequently, this civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

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