

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1708 of 2017

Tirath Kumar, Son of Thagai Mahto, resident of village - Laxmipur, P.S. Valmiki Nagar, District - West Champaran.

... .. Plaintiff-Petitioner

Versus

1. Lakshmi Mahato
2. Babunandan Mahto, Both sons of Late Devi Mahto residents of village - Laxmipur, P.S. Valmiki Nagar, District West Champaran.
.....Intervener/ Respondents 1st Set
3. Thagai Mahto Son of Late Balbhadra Mahto
4. Dharamnath Mahto
5. Sikandar Mahto
6. Om Prakash Kumar, All sons of Thagai Mahto residents of village - Laxmipur, P.S. Valmiki Nagar, District West Champaran.
.....Plaintiffs-Respondents 2nd Set
7. Bhim Narayan Mahto, Son of Late Daya Ram Mahto
8. Mitlal Mahto
9. Rameshwar Mahto
10. Ramlal Mahto
11. Premlal Mahto
12. Harilal Mahto
13. Motilal Mahto All sons of Late Dewan Mahto
14. Ramchandra Mahto
15. Parsuram Mahto
16. Pitambar Mahto All sons of Late Kali Ram Mahto null
17. Shivjatan Mahto Son of Late Balbhadra Mahto
18. Naresh Mahto Son of Shivjatan Mahto
19. Santosh Mahto
20. Munna Mahto Both sons of Late Heera Mahto
21. Nannlal Mahto
22. Laxmi Mahto Both sons of Late Balbhadra Mahto All residents of village - Laxmipur, P.S. Valmiki Nagar, District - West Champaran.
23. Sonia Devi D/o Chulhai Mahto, W/o Late Bika Mahto resident of Village - Kanghusari, P.S. Valmiki Nagar, District West Champaran.
24. Gangai Devi D/o Late Chulhai Mahto, W/o Late Hiranman Kaji resident of village - Bherihari, P.S. Valmiki Nagar, District - West Champaran.
25. Raghunandan Mahto
26. Raghunath Mahto Both sons of Ganga Mahto



27. Shankar Mahto Son of Late Ajeet Mahto
28. Lagan Mahto
29. Rogai Mahto Both sons of Mayaram Mahto
30. Basudeo Mahto
31. Baldeo Mahto
32. Phago Mahto All sons of Lat Dhaniram Mahto
33. Pintu Mahto Son of Late Lakhshiswar Mahto All are residents of village Laxmipur, P.S. Valmiki Nagar, District Patna.

... .. Respondents 3rd Set

Appearance :

For the Petitioners : Mr. Rajan-Advocate
For the Respondents : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

20-09-2019

Heard learned counsel for the petitioner.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 30.06.2017 passed in Partition Suit No.67/2016 by the Sub Judge-IIInd, Bagha, West Champaran, by which he has allowed the Intervention Application dated 24.01.2017 and 03.04.2017 filed by the respondents 1st Set and directed them to be added as Interveners/ respondents in the suit.

3. Learned counsel appearing for the petitioner submitted that the order impugned passed by the trial Court is bad in law as it failed to appreciate that the interveners as respondents are adjoining raiyats and not the coparceners of the plaintiff. He submitted that the impleadment of the interveners as defendants would complicate the entire issues involved in the



suit. According to him, the trial Court also failed to appreciate that the impleadment would create a vested right in the interveners as they would be treated as coparceners.

4. Having heard the petitioners and perused the materials on record, I find that the trial Court has allowed the intervention application mainly on the ground that the Mukhiya, Sarpanch, Ward Member, Member of Jal Parishad and several villagers had certified that the interveners are the descendants of Ram Charan Mahto. From the pleading of the petitioner, it would appear that Ram Charan Mahto is forefather of the plaintiff-petitioner.

5. In case, the trial Court reached to the conclusion that the plaintiff and defendants as also the interveners had a common ancestor and allowed the interveners to be impleaded as defendants, no error can be found with the order impugned as Order-1, Rule-10(2) of the Code of Civil Procedure gives discretionary jurisdiction to the Court to add name of any person, who ought to have been joined, whether as plaintiff or defendant or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all questions involved in the suit.



6. The apprehension of the petitioner that by mere impleadment of the interveners as defendants, the interveners would be deemed to be the offspring of common forefather is without any basis. Mere impleadment of a person as a party in the suit does not amount to declaration of any fact, which is yet to be determined by the Court at appropriate stage in the suit by framing an issue.

7. Since the order impugned is neither perverse nor without jurisdiction, I am not inclined to interfere with the same in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

8. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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