

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.339 of 2019

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Jagdeep Prasad Singh S/o Ramchandra Singh resident of Village- Sarari, P.S.
Patory, District- Samastipur.

... .. petitioner-petitioner

Versus

1. Anand Kishore Sinha
2. Jaikishor Prasad Sinha

Both sons of Kameshwar Prasad Sinha, resident of Mohalla-
Kashipur, Ward No. Old- 13, New Ward No.- 9 under town Samastipur, P.S.
and District- Samastipur.

3. Ghanshyam Prasad S/o Late Maheshwar Sah resident of Village- Bhaua,
P.S.- Patory, District- Samastipur, at present resident of Mohalla- Kashipur,
Ward No. 13, New Ward No.- 9 under town Samastipur, P.S. and District-
Samastipur.
4. Madan Rai S/o Late Laxmi Narayan Rai
5. Lalan Rai S/o Late Laxmi Narayan Rai

Both 4 and 5 are resident of Mohalla- Kashipur, Old Ward No.- 13,
New Ward No.- 9 under town Samastipur, P.S. and District- Samastipur.

6. Savitry Devi W/o Late Chandra Shekhar Prasad Sinha resident of Mohalla-
Rahmatpur, P.S. and District- Samastipur.

..... Opposite parties-1st set/-Respondents 1st set

7. Amit Kumar Sinha S/o Late Braj Kishore Prasad resident of Mohalla-
Amirganj, Dharampur, P.S.- Samastipur (Mufassil), District- Samastipur.

..... Opposite party-2nd set/-Respondent 2nd set

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Appearance :

For the Appellant/s : Mr.Arvind Kumar Sinha, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 20-06-2019



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 10.08.2018 passed by the learned Sub Judge-VI, Samastipur in Final Decree Case No.28 of 2009 arising out of Partition Suit No.271 of 2000 whereby he has allowed the application filed by the respondent second set and has directed the office to incorporate his name as defendant in the plaint.

3. It is contended by the learned counsel for the petitioner that the court below has erred in allowing the intervention petition filed by the respondent second set and dismissing the recall petition filed by the petitioner. It is further contended that in view of absence of challenge to the preliminary decree, impleadment petition at the stage of final decree is not maintainable. The third party is not entitled to be impleaded at the stage of final decree for the purpose of deciding the rival claims.

4. On perusal of the record it would appear that the respondent second set had filed an application on 09.11.2017 stating therein that he is the purchaser of the suit land, as detailed in schedule-III of the plaint from the plaintiff (decree



holder) Jagdeep Prasad Singh through registered sale deed. *Jamabandi* has been created in his favour. Hence, he is entitled to get his separate Patti carved out in respect of the suit land.

5. A rejoinder was filed on behalf of the plaintiff on 04.11.2017 stating therein that the respondent second set is the purchaser from him and he has got no objection if he is impleaded as defendant.

6. It was under this circumstance the trial court allowed the application of the respondent second set and directed the office to implead him as defendant in the plaint.

7. Order 1 Rule 10(2) provides that the court may strike out the name of a party improperly joined or add a party. The said sub-rule (2) of Rule 10 gives wide discretion to the court in the matter of impleadment of necessary party or proper party. The object of the said rule is to bring on record all the persons who are parties to the dispute relating to the subject matter so that the dispute may be determined in their presence without any protraction and inconvenience and to avoid multiplicity of the proceedings.

8. On the facts and in the circumstances of the case, if the trial court has considered the intervenor respondent to be a necessary party and directed the office to implead him as



defendant, no illegality can be found with the order impugned.

9. The application lacks merit. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.06.2019
Transmission Date	

