

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.354 of 2019

1. Tuntun Paswan son of Late Yogi Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.
2. Girja Devi Wife of Tuntun Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.
3. Paltan Paswan son of Tuntun Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.
4. Chatthu Paswan son of Tuntun Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.

... ..Plaintiffs- Petitioners

Versus

1. Lagan Paswan son of Late Udan Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.
2. Indal Paswan son of Late Ramdeo Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.
3. Indrajit Paswan son of Late Ramdeo Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.
4. Kamal Paswan son of Late Jagdish Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.
5. Bir Bahadur Paswan son of Late Jagdish Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.
6. Sakal Paswan son of Late Bhutta Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.
7. Chandeshwar Paswan son of Late Bhutta Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.

.... Opposite party-1st Party

8. Kailash Paswan son of Late Deonandan Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.
9. Bashishth Paswan son of Late Raghunandan Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi.

... Opposite party- 2nd Party

10. Kishori Paswan son of Late Yogi Paswan resident of Village- Saukhi, Post Office and Police Station- Riga, District- Sitamarhi, at present resident of Village- Bhawdepur, Post Office- Bhawdepur, Police Station- Riga, District-



Sitamarhi.

... .. Opposite Parties

Appearance :

For the Petitioners : Mr.Najmul Hoda, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date : 20-06-2019

Heard learned counsel for the petitioners and perused the record.

2. This application under Article 227 of the Constitution of India has been filed by the petitioners for quashing the order dated 03.02.2018 passed by the learned Additional Munsif, Sitamarhi in Title Suit No. 42 of 2008 whereby the application filed by the petitioner under Section 80 of the Code of Civil Procedure (for short 'CPC') has been rejected.

3. The petitioner has filed Title Suit No. 42 of 2008 for declaration that several deeds mentioned in the plaint were bad and for a further declaration of title and confirmation of possession and in the alternative for delivery of possession of the suit land. After closure of evidence when the arguments were being advanced, the petitioner filed an application on 07.02.2017 praying therein to dispense with issuance of notice to the State in terms of Section 80(2) of the CPC and implead the State of Bihar as defendant. Contesting defendants contested the matter. After



hearing the parties, the learned Munsif dismissed the application dated 07.02.2017 filed by the petitioners.

4. Learned counsel for the petitioners submitted that the court below has acted illegally in exercise of jurisdiction. It was incumbent upon the learned Munsif to have dispensed with the statutory requirement of issuance of notice to the State. None impleadment of the State of Bihar as a party in the case would prejudice the case of the petitioners.

5. A plaintiff intending to institute a suit against the Government has two options. He may file a suit after serving two months' notice under Section 80 of the CPC or he may file suit without serving notice but in that event he must satisfy the court that an urgent and immediate relief is required. In a case of requirement of urgent and immediate relief, the plaintiff is required to obtain previous leave of the court. In the first course, the suit cannot be filed before the expiry of the two months of giving of the notice. In the second case, a suit can be filed without giving the requisite notice only after obtaining the leave of the court.

6. Here, in the present case, while passing the order impugned, the court below has recorded that for dispensing with issuance of notice to the State, as provided under Section 80



of the CPC, there must be an urgent and immediate requirement of relief. However, the case is quite old and nothing has been brought to the notice of the court that an urgent and immediate relief is required.

7. Under the circumstances, if the court below has disallowed the application of the petitioner for dispensing with issuance of notice as provided under Section 80(2) of the CPC for impleading the State of Bihar as party, no illegality can be found with the order impugned.

8. The application, being devoid of merit, is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.06.2019
Transmission Date	NA

