

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.518 of 2019

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Bindeshwar Prasad Kamat son of Janak Kamat, Resident of Village-Teghara,
Police Station-Babubarhi, District- Madhubani

... ..Intervener Petitioner/Petitioner

Versus

1. Archana Nahata wife of Rakesh Nahta, Resident of Village and Police Station- Khutauna, District -Madhubani
2. Sudha Kumari wife of Gyan Chandra Kumar, Resident of Village -Chaturbhuj Piparahi, Anchal and Police Station-Laukaha, District- Madhubani

Plaintiffs/Respondents

3. The State of Bihar through the Collector, Madhubani
4. The Sub-Divisional Magistrate, Madhubani, P.S. and District- Madhubani
5. The Deputy Collector Land Reforms, Madhubani, P.S. and District- Madhubani

... .. Defendants/ Respondents

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Appearance :

For the Petitioner	:	Mr.Prabhas Ranjan, Advocate
For the Respondents	:	Mr.Sajid Salim Khan, SC 25

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 16-08-2019

Heard learned counsel for the petitioner and
learned counsel for the State.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 11.01.2019 passed by the learned Munsif-1, Madhubani in Title Suit No.17 of 2018 whereby the petition dated 03.08.2018 filed by the petitioner under Order 1 Rule 10(2) of the Code of Civil Procedure (for short 'CPC') for impleading him as defendant in the suit has been rejected.

3. Learned counsel appearing for the petitioner



submitted that the plaintiff is claiming over the land in question on the basis of transfer made by one Hiya Lal Mahto, but Hiya Lal Mahto has no right, title and interest to transfer the land in question in favour of the petitioner. The land in question is a public land being used by the villagers since long, but it has been encroached by the plaintiffs, as a result of which the free flow of traffic has been obstructed. He contended that the Land encroachment Case No.05 of 2016-17 was initiated at the instance of the petitioner. He had filed a writ petition vide CWJC No.469 of 2017 before this Court in which the plaintiffs and the defendants were impleaded as respondents, but the plaintiffs deliberately did not implead the petitioner as a defendant in the Title Suit No. 17 of 2018. He contended that in order to avoid multiplicity of litigation, the court below ought to have allowed the application filed by the petitioner for being impleaded as defendant in the suit, but erroneously it has rejected the application filed by the petitioner in this regard.

4. On the other hand, learned counsel appearing for the State submitted that the suit has been filed by the plaintiffs for declaration of their title and confirmation of possession over the suit land. The plaintiffs have not claimed any relief against the private party. The Government of Bihar



has appeared in the suit and by way of rejoinder it has submitted that the State is capable enough to protect its interest over the suit land. He contended that having regard to the facts and circumstances of the case, the court below has rightly rejected the application filed by the petitioner as impleadment of unnecessary party would have further complicate the disposal of the suit.

5. I have heard learned counsel for the parties. I find substance in the submissions of the learned counsel for the State. The plaintiffs have filed the suit for declaration of their title and confirmation of possession and denied the title of the Government of Bihar over the suit land. They have not claimed any relief against the petitioner. The Government of Bihar has appeared in the suit and is contesting the same. The plaintiffs have not made any specific claim against the petitioner. The petitioner has himself submitted that he wants to be added as defendant being part of general public. However, no permission was ever sought from the court under Order 1 Rule 8 of the CPC for representing the case of public at large. The petitioner has got no personal interest over the property in dispute. The defendant is the State of Bihar and is contesting the suit. It is well settled position in law that the plaintiff is deminus litis. He



may choose only those persons as defendants against whom he wishes to proceed.

6. Under Order 1 Rule 10(2) of the CPC, the court has a discretion to implead any person as plaintiff or defendant, but such discretion can be exercised only if the court feels it necessary in order to enable it to effectually and completely adjudicate upon and settle all questions involved in the suit.

7. In the instant case, the court has rightly rejected the application of the petitioner filed under Order 1 Rule 10(2) of the CPC, as his presence was not found necessary to adjudicate the questions involved in the suit.

8. In absence of any illegality or perversity in the order passed by the court below, I am not inclined to interfere with the order impugned in supervisory jurisdiction under Article 227 of the Constitution of India.

9. The application is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.08.2019
Transmission Date	N/A

