

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.527 of 2019**

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Singheshwar Yadav @ Sideshwar Yadav S/o Late Vajo Yadav R/o Village-
Shilphari, Tola, Chandramandih Gangti, P.O. Madhopur, P.S. Chandramandih,
District-Jamui

... .. Petitioner

Versus

Kunjo Mahton S/o Late Mahavir Mahto R/o Village-Jatwara Tola 1, P.S.-
Chandan, District-Banka

... .. Respondent

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Appearance :

For the Petitioner	:	Mr. Subodh Kumar Jha, Advocate Mr. Krishna Kumar, Advocate
For the Respondent	:	Mr. Pranav Kumar Jha, Advocate Mr. Rakesh Ranjan, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT**

Date : 29-08-2019

In the instant application preferred under Article 227 of the Constitution of India, the petitioner has challenged the order dated 14.02.2019 passed in Title Suit No. 181 of 2016 by the learned Sub-Judge, Jamui by which he has allowed the application filed by respondent under Order 1 Rule 10(2) of the Code of Civil Procedure (for short 'CPC').

2. The contention of the petitioner is that by allowing the petition filed by respondent, the trial court has committed an error of record by saying that since the name of Etwari Mahto is shown in genealogical table of Title Suit No. 181 of 2016 the application filed by the respondent has to be allowed. He has submitted that respondent is not the son of



Etwari Mahto rather he is a son of Mahavir Mahto residing in a different village and has no concern with the Etwari Mahto.

3. On the other hand, learned counsel appearing for the respondent submitted that in the title suit filed by the petitioner and others, the respondent had filed an application under Order 1, Rule 10(2) of the CPC contending that the documents filed on behalf of respondent suggested that the father's name of the respondent was Mahavir Mahto @ Etwari Mahto. Since the respondent is son of Etwari Mahto, merely because his father had an alias name, he cannot be non-suited in the title suit.

4. Having heard learned counsel for the parties and perused the record, I see no perversity in the order impugned whereby the application filed by the respondent has been allowed.

5. Order 1, Rule 10(2) of the CPC confers jurisdiction upon the court to strike out or add parties whether as plaintiff or defendant the 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 the questions involved in the suit at any stage of the proceedings either upon or without application of either party and on such terms as may appear to the court to be just.

6. Addition of the parties is a matter of discretion. The very object of the rule is to discourage contests on technical grounds and to save the honest and bona fide claimants from being non-suited.

7. The application filed by respondent has been allowed. Impleadment of the party has been made on the basis of materials available on record. The mere impleadment as party would not confer any right to the parties except right to contest.

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

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2019
Transmission Date	

