

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.23 of 2019

1. Md. Rizwan and Anr S/o Late Md. Ramzan.
2. Badruddin @ Md. Badruddin, S/o Late Kurban Ali, Both resident of Mohalla- Siwan Nayakila Kamkar Toli, P.O.- Siwan Nagar, Pargana- Bara, P.S.- Siwan, District- Siwan.

... .. Petitioner/s

Versus

1. Abdul Kadir
2. Gulam Sarwar.
3. Gulam Sabir. Sl.No. 1 to 3 Sons of Late Abdul Mazid.
4. Jaibun Nisha
5. Nisha Khatoon
6. Saimun Khatoon Sl. No. 4 to 6 Daughter of Late Abdul Mazid.
7. Abdul Rashid, S/o Md. Yusuf @ Isimdar Miyan. All resident of Village- Siwan Nayakila Kamkar Toli, P.O.- Siwan Nagar, Pargana- Bara, P.S. Siwan, District- Siwan.
8. Chandrika Nonia.
9. Ram Avtar Nonia. Both 8 & 9 Sons of Late Lakhan Nonia.
10. Munna Nonia, S/o Late Dwarika Nonia.
11. Gayatri Devi.
12. Koshila Devi.
13. Durga Devi. Sl. No. 11 to 13 Daughter of Late Dwarika Nonia.
14. Vagallu Prasad
15. Badru Prasad Both Sl. No. 14 & 15 Sons of Late Mahadev Kahar.
16. Champa Devi
17. Chameli Devi Both Sl. No. 16 & 17 Daughter of Late Mahadev Kahar, All resident of Mohalla- Kasba Siwan Nayakila Kamkar Toli, P.O.- Siwan Nagar, Pargana- Bara, P.S.- Siwan, District- Siwan.
18. The State of Bihar through Collector, Siwan.
19. The Collector, Siwan.
20. The Additional Collector, Siwan.
21. The Circle Officer, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nishant Kumar Sinha, Adv.
For the Respondent/s : Mr.Subash Chandra Yadav -Gp15



CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 22-01-2020

Heard learned counsel for the petitioners and
learned counsel for the respondents.

This application has been preferred praying inter
alia for the following relief/s:

“For quashing the order dated 21.8.2018
in T.S. No.106/92, by learned Munsif 1st, Siwan
whereby an application to plaintiff dated 1.7.2017 U/o
10(2) for impleading the necessary parties in view of
the event taken place over the land in dispute and the
same has been rejected vide order dated 21.08.2018 on
a very mechanical manner and also failed to appreciate
that the suit is in its initial stage and issue has yet to be
framed has taken note in the order impugned itself.”

Having perused the order dated 21st of August, 2018,
whereby the plaintiff's application dated 17.7.2017, filed
under Order 1 Rule 10(2) C.P.C. stands rejected, this Court is
of the considered view that the court below committed a grave
error in rejecting the application, leading the order passed to
the perverse and unreasonable. The plaintiff is dominous litis
and it is for him to choose as to who ought to be a party
respondent.



In the instant case, from the record it cannot be inferred that the plaintiff has been delaying the proceedings in any manner. Also, what is important is that the party sought to be impleaded i.e. the Executive Officer, Siwan Nagar Parishad and Nagar Sabhapati, Siwan Nagar Parishad are necessary for the adjudication of the lis inter se the parties. Rights in the property and its nature are to be determined. As such, such respondents are necessary and proper parties.

Hence, the impugned order dated 21.8.2018 in T.S. No.106/92, by learned Munsif 1st, Siwan is quashed and set aside with the application being allowed and the party referred to (supra) allowed to be impleaded as a party respondent.

(Sanjay Karol, CJ)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.01.2020
Transmission Date	N/A

