

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1169 of 2018

Om Prakash Sharma Son of Jay Gowind Sharma, resident of Village- Jamira,
Police Station- Narhi Chandi, District- Bhojpur.

... .. Petitioner/s

Versus

1. Rina Devi, Daughter of Late Sharda Prasad Sharma,
2. Durga Prasad Sharma, Son of Late Ram Janm Mistri
3. Nand Lal Sharma,
4. Munna both sons of Durga Prasad Sharma,
5. Ajay Sharma, Son of Late Sharda Prasad Sharma. All Resident of village- Behia, Police Station- Behia, District- Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sandeep Kumar, Advocate
Mr. Rohit Raj, Advocate

For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date : 20-02-2020

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

2. The present petition has been filed *“for setting aside the order dated 06.04.2018, passed by the Court of Sub Judge-IV, Ara, Bhojpur in Title Suit No. 284 of 1995, whereby the petition filed on behalf of the petitioner under Order I Rule 10 of the Code of Civil Procedure, 1908 (for brevity “the Code”), wherein the prayer of the petitioner to implead him as defendant in the present suit, has been rejected.”*

3. Learned counsel for the petitioner submits that the learned Court below ought to have allowed his intervenor petition inasmuch as he had a right and interest in the suit property under partition, being a member of one branch of the family of his deceased father Ram Murthy @ Manorma. The



genealogical table issued from the office of the Circle Officer, Bihiya as well as the petitioner's deposition supported the claim of the petitioner.

4. Learned counsel for the respondents appearing *suo motu* opposes the petition.

5. Having heard the parties and on consideration of the materials on record, this Court is not inclined to interfere in the matter. From a perusal of the impugned order dated 06.04.2018 it appears that the preliminary decree was prepared as far back as on 27.06.1998, but the petitioner has approached for being impleaded as party-defendant at a belated stage when the final decree was under preparation. Learned counsel for the petitioner was unable to show before this Court that the certificate of the Circle Officer containing the genealogical table was filed before the learned Court below, nor even any clear statement in the petitioner's deposition claiming that he was a member of the joint family. As such the learned Court below has rightly observed that the petitioner's status in the joint family has not been established.

6. In the above view of the matter, this Court finds no illegality, infirmity or error of jurisdiction in the impugned order.

7. The petition stands dismissed.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
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