

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.101 of 2020**

1. Suraj Chaudhari
2. Sheonath Chaudhari
Both are Sons of Late Fekanu Chaudhari, Resident of Village- Auwan, P.O.-
Thanua, P.S.- Shivsagar, District- Rohtas.

... .. Petitioner/s

Versus

1. Narendra Kumar Singh Son of Late Yadubansh Singh
2. Sujit Kumar Singh Son of Late Ashok Kumar Singh
3. Naurang Singh Son of Late Laxmi Singh
4. Surendra Kumar Singh Son of Raghubansh Singh
All are Resident of Village- Auwan, P.O.- Thanua, P.S.- Shivsagar, District-
Rohtas.
5. Gram Panchayat Through Mukhiya, Village- Auwan, P.O.- Thanua, P.S.-
Shivsagar, District- Rohtas.
6. The Collector Rohtas at Sasaram.
7. The Anchaladhikari, Shivsagar, P.S.- Shivsagar, District- Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajani Kant Singh

For the Respondent/s : Mr.Md.Khurshid Alam (Aag12)

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

2 20-01-2020 Petitioners have prayed for the following relief(s):

“For setting aside the order dated 28.08.2019 passed by Sri Ravi Ranjan, learned Sub Judge-IX, Civil Court, Sasaram, Rohtas in Title Suit No. 488/2011/CIS.Reg. No. 221/2014, as contained in Annexure-5, whereby and whereunder learned Sub -Judge IX, Sasaram has been pleased to allow the petition dated 02.07.2019 filed on behalf of the plaintiffs/respondents under Order 1 Rule 10 C.P.C. and Section 151 C.P.C.”



Petitioners, who are the Defendants, have assailed the impugned order dated 28.08.2019 passed by the learned Sub Judge-IX, Civil Court, Sasaram, Rohtas in Title Suit No. 488/2011/CIS.Reg. No. 221/2014 on the ground that no notice under Section 80 C.P.C. stood served upon the State and as such application seeking impleadment of the State as party defendant in the suit was misconceived and ought to have been rejected rather than allowed with the impleadment of the State as a party Defendant in the said suit.

Learned counsel for the petitioners states that the Mukhiya of the concerned Gram Panchayat, already stands impleaded as a party to the suit.

Noticing the fact that the suit was filed in the year 2011 and that it is pending trial since long, as also the fact that it is always open for the defendants/instant petitioners to file an application, under the provisions of the Code of Civil Procedure, seeking rejecting of plaint on the ground, for suit being barred by law, as is sought to be canvased herein, as also the fact that non-issuance of notice is a matter to be considered by the trial court either in such application or by way of framing of an appropriate issue, based on the pleadings, no ground for interference is made out in the instant case for it cannot be said



that the impugned order is, in any manner, perverse, illegal or erroneous.

The Court itself clarified that no issue on merit stood decided, save and except, i.e. recorded in the order.

The present petition stands disposed of.

(Sanjay Karol, CJ)

sujit/-

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