

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.384 of 2018

Sunita Devi Wife of Vijay Kumar Sah, Resident of Bavanbara, P.S.-G.B.
Nagar Tarwara, Dist.-Siwan

... .. Petitioner/s

Versus

1. Rama Shankar Prasad and Ors
2. Nagendra Prasad, Son of Late Durga Prasad
3. Krishna Sah, Son of Late Dedhi sah
4. Gorakh Chaudhary, Son of Late Budhan Chaudhary
5. Samendra Kumar Yadav, Son of Late Dinanath Yadav
6. Moti Lal Yadav, Son of Late Swaminath Yadav, Respondent Bo.-1 to 6
Resident of Village-Chauki Hasan, P.O.-Chauki Hasan, P.S.-Gautam Buddha
Nagar Tarwara, Dist.-Siwan.
7. Santosh Kumar Yadav, Son of Dev Narayan Yadav, Resident of Village-
Bavanbara, P.S.-Barhariya, Dist.-Siwan
8. Kamta Prasad, Son of-Basith Singh, Resident of Village-Mahmadpur Tole
Mirjapur, Gautam Buddha Nagar Tarwara, Dist.-Siwan.
9. Guddu Prasad, Son of Nagendra Prasad, Resident of Village-Chauki Hasan,
P.O.-Chauki Hasan, P.S.-Gauram Buddha Nagar Tarwara, Dist-Siwan.
10. Uma Shankar Prasad,
11. Dhruvdeo Prasad,
12. Vidyabhushan Prasad,
13. Hautam Prasad,
14. Lalan Prasad, respondant No.-10 to 14 Son of Late Ramanand Prasad,
Resident of Village-Chauki Hasan, P.O.-Chauki Hasan, P.S.-Gautam Buddha
Nagar Tarwara, Dist.-Siwan
15. Vijay Kumar Sah, Son of Shiv Balak Sah, of Vijay Kumar Sah. Resident of
Bavanbara, P.S.-G.B. Nagar Tarwara, Dist.-Siwan
16. Subash Prasad, Son of Late Surya Deo Prasad
17. Sanjay Prasad, Son of Late Gopaljee Prasad, Respondent No.-16 and 17
Resident of Village-Chauki Hasan, P.O.-Chauki Hasan, P.S.-Gautam Buddha
Nagar Tarwara, Dist.-Siwan.
18. Laxman Prasad, Son of Ramdhari Prasad, Village-Bal Gopal, P.S.-Siwan,
District-Siwan.
19. Vidya Pandey, Son of Late Brahmo Pandey, Madhopur, Gautam Buddha
Nagar (Tarwara) Dist.-Siwan.
20. Achchhewar Pathak, Son of Late Bhagwati Sharan Pathak.
21. Kapileshwar Pathak, Son of Ramchhabila Pathak, Respondent No.-20 and
21 resident of Village-Salahpur, P.S.-Gauram Buddha Nagar Tarwara, Dist.-
Siwan



... .. Respondent/s

Appearance :

For the Petitioner/s : Mrs. Madhuri Lata, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 21-07-2022

Heard Mrs. Madhuri Lata, learned counsel for the petitioner.

2. The petitioner is a defendant in Title Suit No. 834/2012 filed by the Respondent Nos. 10 to 14 as plaintiffs challenging the validity of the sale deed executed in favour of the petitioner by the rightful owner through registered sale deeds dated 30.3.2003, 27.7.2011 and 24.8.2011 respectively.

3. The petitioner is aggrieved by the impugned order dated 6.12.2017 passed by the learned Sub Judge X, Siwan, in Title Suit No. 834/2012, by which, the application filed by the Respondent Nos. 1 to 9 under Order 1 Rule 10(2) CPC has been allowed on the claim of the intervenors that they are the purchasers *pen dentilite* of the suit land.

4. Learned counsel for the petitioner submits that the Respondent Nos. 1 to 9 cannot be added as party inasmuch as when the suit was filed by the plaintiffs, they were not in picture and they claimed to be the subsequent purchasers. She further submits that the petitioner/defendant has also filed a separate suit



against the intervenors Respondent Nos. 1 to 9 herein challenging the sale deed executed in their favour and the number of that Title Suit is 840/2014.

5. I have heard learned counsel for the parties and have perused the materials on record including the impugned order. It appears that Respondents No. 1 to 9 filed a petition on 20.3.2014 for impleadment as parties in the present suit on the ground that in *Khata No. 23, Khesra No. 2055 and 2056* which are the disputed property in the Title Suit 834/2012 with further claim that the suit property has been purchased by virtue of sale deeds by them dated 17.2.2014 and 30.12.2013 respectively from the rightful owner. The grounds taken by Respondent Nos. 1 to 9 in their petition is that the plaintiffs and defendants of the present suit are in collusion and by way of conspiracy, they filed the present case to grab their purchased property. It appears that the suit property has been purchased during the pendency of the suit and the issue of *pendente lite* purchaser has been considered by the Hon'ble Supreme Court in the case of ***Thomson Press (India) Ltd. Vrs. Nanak Builders and Investors Private Limited and Others*** reported in ***(2013) 5 SCC 397*** wherein the Hon'ble Apex Court considering the various judgments on the issue has taken into consideration the distinction between exercise of jurisdiction under



Order 1 Rule 10 CPC and that conferred under Order 22 Rule 10 of the CPC. The Hon'ble Supreme Court held that an alienee *pendente lite* can be impleaded as party under Order 22 Rule 10 of the CPC if his interest is substantial. The learned trial court has come to the conclusion that for effectual and just decision of the suit Respondent Nos. 1 to 9 can be added as party inasmuch as they are claiming to be the purchasers *pendente lite*. Thus, independent of Order 1 Rule 10 CPC the prayer for addition/impleadment made by the intervenors can be considered in the light of Order 22 Rule 10 of the CPC. It is settled principle of law that quoting wrong provision of law shall not disentitle a party from the appropriate relief.

6. In view of the aforesaid discussion, I come to the conclusion that there is no material irregularity and jurisdictional error in the impugned order.

7. Accordingly, this application stands dismissed.

(Anil Kumar Sinha, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	28.07.2022
Transmission Date	N.A.

