

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1197 of 2018

1. Talewar Mahto, Son of late Madan Mahto
2. Kanti Devi Wife of Prem Lal Mahto
3. Satya Narayan Mahto Son of late Madan Mahto
4. Bharat Mahto Son of late Siyaram Mahto
5. Janarsi Devi W/o late Siyaram Mahto
6. Ram Babu Mahto Son of late Prem lal Mahto All are Resident of Village- Rita Tole, Shiv Nagar, Police Station- Riga, District- Sitamarhi.

... .. Petitioner/s

Versus

1. Baliram Mahto, Son of late Dular Chand Mahto All are Resident of Village- Rita Tole, Shiv Nagar, Police Station- Riga, District- Sitamarhi.
2. The State of Bihar through Collector, Sitamarhi, District- Sitamarhi.
3. The Circle Officer, Circle Office, Riga, District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar
For the Respondent/s : Mr.Sajid Salim Khan- Sc25

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 11-08-2022 Heard learned Counsel for the parties concerned.

The respondent no. 1 has filed Title Suit No. 06 of 2017 against the State of Bihar for declaration of title and for correction of entry in the survey record to the extent that entry in the survey record with respect to plot no. 15891 should be corrected and in its place, plot no. 15892 be recorded. It is undisputed that plot no. 15892 is a public land and the State is already defendant in the suit.

The contention of learned Counsel for the petitioners



is that the petitioners have been using plot no. 15892 as a passage (*raasta*).

The learned Trial Court, by order, dated 22.06.2018, has come to the conclusion that the petitioners are seeking right of easement, which is an independent right and the same can be claimed by the petitioners from the State of Bihar independently inasmuch as according to the petitioners also, the plot no. 15892 belongs to the State of Bihar. The learned Trial Court has also come to the conclusion that the petitioners are not the proper parties inasmuch as the plaintiff is a dominus litis and he has filed the suit against the State of Bihar and in the absence of the petitioners, the suit can effectively be decided.

Learned Counsel for the petitioners submits that if the petitioners are allowed to be impleaded as parties, it will prevent the multiplicity of suit.

Having heard learned Counsel for the parties and after going through the impugned order, I am satisfied that the petitioners have filed the petition for their impleadment in the suit under Order 1 Rule 10 (2) of the C.P.C., claiming their independent right of easement. The suit can effectively be decided between the plaintiff and the State of Bihar in absence of the petitioners. Accordingly, I do not find any illegality in the



order impugned.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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