

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.645 of 2018

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Sukhdeo Prasad Sinha Son of Late Ram Prabhanjan Singh, Resident of
Village P.O. Korlahiya Mansingh, P.S. Runnisaidpur, District- Sitamarhi.

... .. Petitioner/s

Versus

1. Ram Dulari Dei and Ors wife of Late Yugal Kishore Singh, Resident of
Village- Gargaha Athani, P.S. Runnisaidpur, District- Sitamarhi.
2. Paras Kumar, Son of Late ram Anek Singh, Resident of Village- Karlahiya
Mansingh, P.S. Runnisaidpur, District- Sitamarhi.
3. Mirdula Kumar, D/o Late Ram Anek Singh, Wife of Pinku Kumar, Resident
of Village P.O.- Ajamgarh, P.S. Dumra, District- Sitamarhi.
4. Arti Kumari, D/o Sukhdeo Prasad Singh, W/o Rakesh Kumar, Resident of
Village- Korlahiya Mansingh, P.S. Runnisaidpur, District- Sitamarhi.
5. Seema Kumari, D/o Sukhdeo Prasad Singh, Wife of Bhawesh Kumar,
Resident of Village- Baligao at present residing in Raja Market Club Road,
Madnani More, Mithanpura Ramna, P.O. P.S. Mithanpura, District-
Muzaffarpur.
6. Mala Kumari, D/o Sukhdeo Prasad Sinha, Wife of Navin Kumar Singh,
Resident of Mohalla- Adarsh Nagar, Lane No. 2, Manjhaulia, P.S. P.S. Sadar,
Muzaffarpur, District- Muzaffarpur.
7. Raj Kumari Devi, D/o- Late Ram Prabhanjan Singh, Wife of Braj Kishore
Sharma, resident of Village- Gaighat P.O. Thumbra, P.S. Runnisaidpur,
District- Sitamarhi.
8. Suchita Devi, Wife of Paras Kumar
9. Prashant Kumar, S/o Paras Kumar
10. Pranav Kumar, Son of Paras Kumar, All resident of Village- Kolhariya
Mansingh, P.S. Runnisaidpur, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shiva Shankar Sharma
For the Respondent/s : Mr.Alok Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 06-12-2022 The petitioner is the defendant no. 5 in the suit. The

suit for partition has been filed by the respondent-plaintiff in the

year 2013. The petitioner filed a petition under Order 1 Rule 10

(2) of the C.P.C. for impleading the purchasers of the land from



the plaintiff purchased in the year 1998-99.

The petitioner is aggrieved by the order dated 20.03.2018 passed in Partition Suit No. 202 of 2013 by Sub Judge-VI, Sitamarhi by which the petition for impleadment of the purchasers from the plaintiff has been rejected by the learned trial court on the ground that the respondent- plaintiff is the *dominus litis* and the purchasers are neither proper party nor necessary party in the suit for partition. They will have the right to adjust their land from the share as declared and allotted to the plaintiff in the suit. Admittedly the purchasers have not come forward for their impleadment in the suit but the defendant no. 5 has filed petition for impleadment of the purchasers from the plaintiff as defendants in the present suit.

Learned counsel for the petitioner submits that the plaintiff has relinquished her right in the year 1975 and has filed the present suit for partition as such according to him once the right has been relinquished, she cannot claim partition in the joint family property.

On the other hand, learned counsel for the respondent- plaintiff submits that the trial court has rightly come to conclusion that the plaintiff is *dominus litis* and at the behest of the defendant, against the wish of the plaintiff, no body can be



added as a party. He further submits that the proposed defendants are not necessary party in the suit for partition.

The Hon'ble Supreme Court in the case of **Sudhamayee Pattnaik & Ors. *Versus* Bibhu Prasad Sahoo & Ors. reported in 2022 Live Law (SC) 773** has held that the plaintiff is the *dominus litis* and no body can be permitted to be impleaded as defendant against the wishes of the plaintiff unless the court *suo motu* directs to join any other person not party to the suit for effective decree and / or proper adjudication of the suit. From the facts of the case it transpires that the learned trial court has come to the conclusion that the proposed defendants are not necessary party or proper party in the suit.

In view of the aforesaid findings arrived at by the learned trial court and the fact that plaintiff is the *dominus litis*, I am of the opinion that no interference in the impugned order is required by this Court. Accordingly, this application is rejected.

praful/-

(Anil Kumar Sinha, J)

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