

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.502 of 2018

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Ramchandra Singh Son of Late Parmeshwar Singh Resident of Village -
Dumari, Police Station - Hasua, District - Nawadah.

... .. Petitioner/s

Versus

1. Raj Ratan Singh and Ors Son of Late Parmeshwar Singh Resident of Village -
Dumari, Police Station - Hasua, District - Nawada.
2. Anabad-Sarva-Sadharan, The State of Bihar through the Collector, Nawada.
3. Anchal Adhikari, Anchal Hissua, District - Nawada.
4. Mukhiya, Gram Panchayat, Sonba, Police Station - Hisua, Anchal - Hisua,
District - Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ramesh Jha, Adv.
For the Respondent/s	:	Mr.Raj Kishore Roy -GP18
For the Respondent	:	Mr. Dronacharya, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 22-09-2022 Heard Mr. Ramesh Jha, learned counsel for the

petitioner and Mr. Dronacharya, learned senior counsel for the

respondents.

2. Petitioner is aggrieved by an order dated
23.01.2018 passed in Title Appeal No. 12 of 2012/13 of 2017
whereby a petition filed by the petitioner under Order 1 Rule
10(2) for impleadment in Title Appeal has been rejected by the
lower appellate court.

3. An appeal bearing Title Appeal No. 12/2013 was
filed by the respondent/plaintiff against the State of Bihar for a
declaration where revisional survey entry standing in the name



of State of Bihar is wrong and incorrect pertaining to the suit property described in Schedule-1 of the plaint to the extent of *1 Bigha 16 Katthas 06 Dhurs*. The plaintiff filed a suit for declaration of title over the suit property holding that revisional survey standing in the name of State of Bihar is wrong and incorrect. The suit filed by the respondent/plaintiff was dismissed and an appeal has been preferred bearing Title Appeal No. 12/2012 which is pending.

4. The petitioner filed an intervention petition at the appellate stage by saying that the suit land is a joint family property and since the respondent/appellant has prayed for declaration of title upon suit land, therefore, the petitioner is a proper party to be added at the stage of appeal.

5. Mr. Dronacharya, learned senior counsel submits that the respondent No.1 filed a suit for declaration that entry in the revisional survey *Khatiyar* prepared by the State Government is wrong and no relief has been claimed against the petitioner. The relief which has been claimed in the suit is only against the State Government. He next submits that intervener/petitioner is the brother of the appellant/respondent and in the year 1999, the joint property situated in Plot No. 429 has already been partitioned and all the brothers have got their



respective possessions upon the suit land. The intervener/petitioner has sold his share which was allotted to him by way of oral partition. He further submits that theory of oral partition has been admitted by the intervener/petitioner in his petition for intervention filed before the lower appellate court.

6. Learned counsel relies upon paragraph-5 of the judgment of Hon'ble Supreme Court passed in the case of *Anokhelal v. Radhamohan Bansal* as reported in (1996) 6 SCC 730 which says that where there is issue of *de novo* trial, one cannot be added as a party. He further submits that if the petitioner has any cause of action against the appellant/respondent, he may institute a fresh suit against him.

7. I have heard the learned counsel for the parties. From perusal of the materials on record, it appears that respondent is seeking declaration of title against the State Government and no claim has been sought against the intervener/petitioner. The specific case of the respondent is that he is seeking correction in the survey entry made in respect of the land situated at plot no. 429 to the extent of share allotted in favour of the respondent/appellant. The fact of oral partition has been admitted by the intervener/petitioner in his petition filed



before the learned appellate court for impleadment. The law in this regard is very clear that the plaintiff is a *dominus lites* and no body can be added as a party against the wish of the plaintiff.

8. Accordingly, I do not find any material irregularity and jurisdictional error in the impugned order requiring interference by this Court. This application stands dismissed.

(Anil Kumar Sinha, J)

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