

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.575 of 2022

1. Ram Bihari Prasad Verma Son of Late Mahadeo Prasad, Resident of Bailey Road (Gola Road) near Shiv Mandir, P.S.- Danapur, District- Patna.
2. Vivek Ranjan Son of Ram Bihar Prasad Verma, Resident of Bailey Road (Gola Road) near Shiv Mandir, P.S.- Danapur, District- Patna.
3. Vishal Kumar Son of Ram Bihar Prasad Verma, Resident of Bailey Road (Gola Road) near Shiv Mandir, P.S.- Danapur, District- Patna.

... .. Petitioner/s

Versus

1. Tanuja Kumari Wife of Sri Om Prakash, Resident of Tekari Road, Pathar Ki Masjid, P.O.- Mahendru, P.S.- Sultanganj, District- Patna.
2. Avinash Kumar Sinha Son of Sri Yogendra Prasad Sinha, Resident of Mohalla- Sultanpur, P.S.- Danapur, P.O.- Danapur, District- Patna.
3. Shivdani Singh Son of Late Dwarika Singh, Resident of Village- Gopalpur, P.S. and P.O.- Akbarpur, District- Nawada.
4. Mukesh Singh Son of Sri Laxmi Singh, Resident of Village- Pandarak, P.O. and P.S.- Pandarak, District- Patna.
5. Ashutosh Kumar Son of Awani Mohan Sharma, Resident of Village- Pandarak, P.O. and P.S.- Pandarak, District- Patna.
6. Dilip Kumar @ Phulan Singh Son of Late Kunj Bihari Singh, Resident of Village- Acjhuara P.S. and P.O.- Barh, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Naresh Chandra Verma
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 17-11-2022 The petitioners are aggrieved by the order dated 19.07.2022 passed by learned Sub Judge VI, Danapur in Title Suit No. 115 of 1995 by which the intervention petition filed by respondent nos. 4, 5 & 6 have been allowed by the learned trial court.

The petitioners have filed the suit for declaration that



the power of attorney is inoperative and further for setting aside the sale deed, which has been executed on the strength of the said power of attorney.

Learned counsel for the petitioners submits that petitioners are the plaintiff in the suit and during pendency of the suit, the suit property was sold in favour of three persons and the purchasers filed a petition for their impleadment as defendants in the suit on the basis of the fact that they are the purchasers pendente lite of the suit property. Learned counsel next submits that the sale made in favour of the interveners was hit by Section 52 of the Transfer of Property Act and as such, they cannot be made party in the suit. He further submits that subsequently in the year 2022 the respondents - intervenors have also sold the property in favour of others.

The issue of pendente lite purchaser has been considered by the Hon'ble Supreme Court in the case of **Thomsan Press India Ltd. v. Nanak Builders and Investors reported in (2013) 5 SCC 397** in which the Apex Court considering the various judgments dealing on the issue has taken into consideration the distinction between exercise of jurisdiction under Order 1 Rule 10 of the C.P.C. as that conferred under Order 22 Rule 10 of the C.P.C. It has been held



that alienee pendente lite can be impleaded as party under Order 22 Rule 10 of the C.P.C. if his interest is substantial.

In the case of **Ramjee Bhai Patel v. Anandi Bai Rama & Ors. reported in (2018) 15 SCC 614** relying upon the “Kasturi” case, the Hon’ble Supreme Court held that if the plaintiff wants to implead certain person, even if he be a subsequent purchaser, he can be impleaded as a party.

In view of the clear cut provision under Order 22 Rule 10 of the C.P.C. that in cases of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the court, be continued by or against the person to or upon whom such interest has come or devolved. In the present case admittedly the interveners have purchased the suit property during pendency of this suit and the interest in the suit property has been transferred in their favour.

In view of the aforesaid facts and the law laid down by the Hon’ble Apex Court, I do not find any reason to interfere with the impugned order.

Accordingly, the application stands dismissed.

praful/-

(Anil Kumar Sinha, J)

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