

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.612 of 2022

1. Sushil Jha Son of Late Chunchun Jha, resident of village - Adhgaon Tola Hanuman Nagar, P.O. Saura, P.S. and Anchal - Nanpur, District - Sitamarhi.
2. Ashok Kumar Jha, Son of Late Chunchun Jha, Resident of village - Adhgaon Tola Hanuman Nagar, P.O. Saura, P.S. and Anchal - Nanpur, District - Sitamarhi.

... .. Petitioner/s

Versus

1. Shri Sitaram Jha S/o Late Harikant Jha, resident of Village - Adhgaon Tola Hanuman Nagar, P.O. Saura, P.S. and Anchal - Nanpur, District - Sitamarhi.
2. Bablu Jha, S/o Late Nilambar Jha, resident of village - Adhgaon Tola Hanuman Nagar, P.O. Saura, P.S. and Anchal - Nanpur, District - Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amit Kumar Jha, Advocate.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 15-11-2022 Heard Mr. Amit Kumar Jha, learned counsel for the

petitioners.

The petitioners are plaintiff Nos. 1 and 2 in Title Suit No. 37 of 2019. The petitioners are aggrieved by an order dated 30.3.2022 passed by the learned Trial Court whereby the petition filed by the petitioners/defendants to add the other legal heirs of defendant No. 4 as defendants in the suit has been rejected. A suit has been filed by the plaintiff claiming title over the suit land on the basis of a sale deed dated 2.3.2015 executed by one Fakira Raut.

From perusal of the impugned order it transpires that the plaintiff/respondent has filed the suit claiming for a decree



and recovery of possession specifically against the defendant Nos. 1 and 2 and other defendants are kind of formal defendants. The learned Trial Court has arrived at the conclusion that after the death of defendant No. 4, his legal heir who is already on record can defend the right of defendant No. 4 and other defendants are not required to be made as party, and, if the petition filed by the petitioners are allowed it would unnecessary linger the suit. It is admitted position that no petition for substitution has been filed by the plaintiffs who is *dominus litis* in the suit.

Under Order XXII Rule 4 (4), the Court whenever it thinks fit, may exempt the plaintiff from the necessity of substituting the heirs/legal representatives.

In view of the aforesaid fact of the case and the reasons given by the learned Trial Court in the impugned order, I come to the conclusion that no interference in the impugned order is required by this Court.

Accordingly, this application stands dismissed.

(Anil Kumar Sinha, J)

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