

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.192 of 2017**

Shobhakant Jha S/o Late Kuseshwar Jha, R/o Village- Kachhua Bhisam Tola,
P.S.- Jaley, District- Darbhanga. Petitioner/s

Versus

1. Maharani Adhirani Kamsundari W/o late Maharaja Dhiraj Kameshwar Singh through Udai Nath Jha R/o Kalyani Niwas, P.S.- L.N.M.U. District - Darbhanga.
2. Shriman Kapileshwar Singh S/o late Raj Kumar Subheshwar Singh R/o Rambagh Palace, P.S.- L.N.M.U. , District- Darbhanga.
3. Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga through the Chancellor, L.N.M.U. Kameshwar Nagar, Darbhanga.
4. The Registrar, L.N. Mithila University, Darbhanga.
5. The Chairman, Darbhanga Regional Development Authority, Darbhanga.
6. The Vice-Chairman, Darbhanga Regional Development Authority, Darbhanga.
7. Yogya Nath Mishra S/o- late Lalit Nath Mishra R/o Village- Lalganj, P.O. Sarisopahi, P.S. Paithghat, District Darbhanga.
8. Darbhanga Properties Private Ltd., Maharaja Office Building, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Baidya Nath Thakur, Adv.
For the Respondent/s	:	Mr.Md. Nadim Seraj, Adv. Mr. Ranjeet Kumar, Adv. Mr. Ranjeeta Singh, Adv. Mr. Ayush Kumar, Adv.

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

CAV ORDER

19 06-07-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the office within one

month.

I have already heard the learned counsel for the
petitioner as well as the learned counsel for the respondents.

Being aggrieved by the order dated 15th of December,
2016 passed in Title Suit No.17/2002, this petition under Article
227 of the Constitution of India has been filed.



The brief fact of the case is that the petitioner, Shobhakant Jha filed Title Suit No. 17/2002 claiming himself to be title holder of the disputed property claiming the property to be settled with petitioner's father by Darbhanga Maharaj, Late Kameshwar Singh. The case of respondent No. 8, Darbhanga Properties Private Limited is that it was purchaser of the disputed land in the year 1962 from Late Darbhanga Maharaj. During pendency of the suit, respondent No. 7, Yogya Nath Mishra filed a petition under Order I Rule 10 (2) of the Code of Civil Procedure, 1908 (hereinafter referred to as 'the Code') to implead him as defendant, claiming himself to be one of the Directors of the Darbhanga Properties Private Limited. That petition was rejected by the court below, vide order dated 25.08.2014. Being aggrieved by that order, respondent no. 7, Yogya Nath Mishra preferred C.W.J.C. No. 18608/2014, which was allowed and the impugned order was set aside. At the time of hearing of the above-mentioned C.W.J.C., it was submitted on behalf of the present petitioner who was respondent in that C.W.J.C. that said Yogya Nath Mishra was not Director of the Company, rather he was Additional Director, as such, he was not necessary party in that title suit. It was also argued that Yogya Nath Mishra cannot be impleaded as defendant in his personal



capacity, rather Darbhanga Properties Private Ltd. is necessary party in that suit. The co-ordinate Bench, vide order dated 26.02.2016, observed that admittedly the property purchased by the company is the subject matter of the suit. It is not denied. In the last paragraph, the co-ordinate Bench has observed as follows:-

“In view of my above finding that the company is the purchaser, which has direct interest in the property, is necessary party. Thus the application filed by the petitioner is allowed. However, it is directed that the company should be added as party defendant through the Director. Misdiscreption should be corrected. Thus, this writ application is allowed. The impugned order passed by the Court below is hereby set aside and the company is made party defendant in the suit.”

The petitioner challenged the order of this Court dated 26.02.2016 before the Hon’ble Apex Court in SLP No.14997/2016, which was dismissed by the Hon’ble Apex Court directing the Trial Court to dispose of the matter expeditiously.

Thereafter, respondent No. 7, Yogya Nath Mishra



filed a petition dated 16th of May, 2016, mentioning therein that this Court in C.W.J.C. No. 18608/2014 directed the Company to be impleaded as one of the defendants, as such, being the Director, he should be impleaded as defendant. The learned Trial Court, vide its impugned order dated 15th of December, 2016, directed Darbhanga Properties Private Ltd. to be impleaded as defendant through its Director.

The learned counsel for the petitioner has submitted that this Court in C.W.J.C. No. 18608/2014 has already observed that the addition of Yogya Nath Mishra was misdescription of the position of party, as such, he has no locus to file again a petition to be impleaded himself as Director of Darbhanga Properties Private Ltd.

On the other hand, the learned counsel for the respondents has submitted that the impugned order shows itself that the court below has not directed Yogya Nath Mishra to be impleaded as Director of the Company, rather in compliance of the order dated 26.02.2016, the learned court below has directed to implead Darbhanga Properties Private Ltd. as defendant through its Director. The order of the learned court below is strictly in compliance of the order passed by this Court in C.W.J.C. No. 18608/2014. The learned counsel for the



respondents has submitted further that moreover respondent No.7, Yogya Nath Mishra has died in February, 2020, as such, the question of impleading him has become *non est*.

From perusal of the impugned order it appears that the learned court below has not passed the order of impleadment of Yogya Nath Mishra as Director of the Company, rather it has been observed by the learned Trial Court that Darbhanga Properties Private Ltd was impleaded as one of the defendants through its Director. Moreover, said Yogya Nath Mishra is no more in this world, as such, the question of his impleadment as Director of the Company has become stale.

On the basis of above-mentioned observation, I do not find any reason to interfere with the impugned order.

Accordingly, this civil miscellaneous petition is dismissed.

Office shall ensure that all defects are removed by the petitioner within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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