

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.643 of 2022

1. Dr. Rama Shankar Prasad S/o- Late Vishwanath Prasad Gupta, resident of Mushallahpur Kisan Cold Storage, P.O.- Mahendru, P.S.- Kadamkuan, District- Patna.
2. Siddhanth, S/o- Dr. Rama Shankar Prasad, resident of Mushallahpur Kisan Cold Storage, P.O.- Mahendru, P.S.- Kadamkuan, District- Patna.
3. Ruchi Prasad, W/o- Dr. Parmanand Prasad, R/o- Rikai Tola, P.O. and P.S.- Thawe, District- Gopalganj.

... .. Petitioner/s

Versus

1. Binod Kumar Gupta S/o- Late Vishwanath Prasad Gupta, Bihar
2. Dr. Shashi Ranjan, R/o- Mushallahpur Kisan Cold Storage, P.O.- Mahendru, P.S.- Kadamkuan, District- Patna.
3. Arvind Kumar Gupta, S/o- Late Vishwanath Prasad Gupta, R/o- Sasamusa, P.S.- Kuchaykote, District- Gopalganj.
4. Manoj Kumar, son of Sri Binod Kumar Gupta, resident of Sasamusa, P.S.- Kuchaikote, District- Gopalganj.
5. Rajiv Ranjan, son of Sri Binod Kumar Gupta, resident of Sasamusa, P.S.- Kuchaikote, District- Gopalganj.
6. Dr. Anand Kumar, son of Sri Binod Kumar Gupta, resident of Sasamusa, P.S.- Kuchaikote, District- Gopalganj.
7. Soni Kumari, D/o- Sri Binod Kumar Gupta, W/o- Sri Vijay Kumar, resident of Sasamusa, P.S.- Kuchaikote, District- Gopalganj.
8. Abinash Kumar, S/o- Sri Arbind Kumar, resident of Sasamusa, P.S.- Kuchaikote, District- Gopalganj.
9. Sweta Kumari, daughter of Arbind Kumar, resident of Sasamusa, P.S.- Kuchaikote, District- Gopalganj.
10. Sneha Kumari, daughter of Arbind Kumar, resident of Sasamusa, P.S.- Kuchaikote, District- Gopalganj.
11. Muskan Kumari, daughter of Dr. Shashi Ranjan, resident of Sasamusa, P.S.- Kuchaikote, District- Gopalganj.
12. Riya Kumari, daughter of Dr. Shashi Ranjan, resident of Sasamusa, P.S.- Kuchaikote, District- Gopalganj.
13. Rudra Kumar, (Minor) under the guardianship of his natural guardian his father Dr. Shashi Ranjan, resident of Sasamusa, P.S.- Kuchaikote, District- Gopalganj.
14. M/s- Aakriti Buildcon Private Limited, a company incorporated under the provisions of companies Act, 1956 through its Director Sri Gopal Prasad, aged about- 56 years, Gender- Male, S/o- Sri S.N. Prasad having its registered office at ground floor, Param Vihar Apartment, Road No. 3, Near- Raj Chikitsa Hospital, New Patliputra Colony, P.S.- Patliputra, District- Patna.



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Kishore Singh
Mr.Satyapal Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 17-11-2022 Heard learned Counsel for the petitioners.

The petitioners are the plaintiffs of Title Partition Suit No. 406 of 2011. The respondent no. 14 has been added as intervenor-defendant in the said suit on the basis of a petition filed by him, under Order I Rule 10 (2) of the Code of Civil Procedure.

The petitioners are aggrieved by order, dated 28.05.2022, allowing the intervention petition filed by respondent no. 14 and impleaded him as defendant in the suit.

Learned Counsel for the petitioners submits that the partition suit has been filed by the petitioners for partition of joint family property, in which the father of the petitioner no. 1-plaintiff was one of the defendant, who already died. During his lifetime, the father of the petitioner no. 1-plaintiff entered into a development agreement with respondent no. 14 with regard to the suit property described in Schedule-I of the plaint. Thereafter, the petitioners-plaintiffs filed a separate suit, bearing Tile Suit No. 305 of 2016 for declaring the development



agreement entered into by the father of the petitioner no. 1-plaintiff and respondent no. 14 as null and void. Another suit, bearing Title Suit No. 209 of 2016, has been filed by the respondent no. 14 for declaration that the development agreement pertaining to the suit property should be binding upon the petitioners-plaintiffs.

Learned Counsel for the petitioners submits that since the respondent no. 14 has already filed a suit in his independent capacity, as such, allowing the petition under Order I Rule 10 (2) of the Code of Civil Procedure filed by respondent no. 14 by the learned Trial Court is not sustainable inasmuch as respondent no. 14 is pursuing his remedies independently by filing a separate suit.

I have heard learned Counsel for the petitioners and have gone through the materials available on record, including the impugned order.

It is admitted position that the land involved in all the aforesaid three suits is the same. The respondent no. 14 is claiming his right based upon the development agreement entered into between the father of the petitioner no. 1-plaintiff and the respondent no. 14 pertaining to the same land. The learned Trial Court has allowed the petition for impleadment of



respondent no. 14 after arriving at the conclusion that the respondent no. 14 has some interest in the suit property.

Taking into consideration the submissions advanced on behalf of the petitioners and the fact that the respondent no. 14 is claiming his right in the suit property at the strength of the development agreement entered into between the father of the petitioner no. 1-plaintiff and the respondent no. 14 and the father of the petitioner no. 1-plaintiff was admittedly defendant in the partition suit, as such, in my opinion, respondent no. 14 has legal interest in the suit property involved in the partition suit.

In view of the aforesaid discussion, the impugned order does not require any interference by this Court.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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