

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.519 of 2018

1. Ganga Dhar Thakur son of Late Tej Narayan Thakur resident of Village-Bhawanipur North, P.O.- Bhawanipur, P.S.- Pratapganj, District- Supaul.
2. Lalan Thakur son of Late Tej Narayan Thakur resident of Village-Bhawanipur North, P.O.- Bhawanipur, P.S.- Pratapganj, District- Supaul.
3. Shyam Thakur son of Late Mohit Thakur resident of Village- Bhawanipur North, P.O.- Bhawanipur, P.S.- Pratapganj, District- Supaul.

... .. Petitioner/s

Versus

1. Gauri Kant Thakur son of Late Dineshwar Thakur resident of Village-Bhawanipur North, P.O.- Bhawanipur, P.S.- Pratapganj, District- Supaul.
2. Vijay Kant Thakur son of Late Dineshwar Thakur resident of Village-Bhawanipur North, P.O.- Bhawanipur, P.S.- Pratapganj, District- Supaul.
3. Mithilesh Thakur son of Late Tej Narayan Thakur resident of Village-Bhawanipur North, P.O.- Bhawanipur, P.S.- Pratapganj, District- Supaul.
4. Kamal Narayan Thakur son of Late Rajdhar Thakur resident of Village-Bhawanipur North, P.O.- Bhawanipur, P.S.- Pratapganj, District- Supaul.
5. Tula Kant Thakur son of Late Dineshwar Thakur resident of Village-Bhawanipur North, P.O.- Bhawanipur, P.S.- Pratapganj, District- Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Amrit Abhijat
For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 27-07-2022 Petitioners are the defendants in the suit filed by the plaintiff - opposite party 1st set for partition bearing Title Suit No. 16 of 2016. By the impugned order dated 07.02.2018 the learned Sub Judge-1, Birpur has allowed the application for addition of some of the persons as defendants in the partition suit on the ground that they have right, title and interest in the joint family property, which is the subject matter of the suit.

Learned counsel for the petitioners submits that petition has been filed under wrong provision of law inasmuch instead of a petition under Order 1 Rule 10 (2) of the CPC the petition for impleadment as party has been filed under Order 1 Rule 10(3) of the CPC and further the plaintiff- respondent did



not make any prayer regarding impleadment of some of the co-sharers as defendants and / or plaintiff but the learned trial court has allowed the petition without any prayer and directed those persons to be added as defendants in the suit.

Having heard learned counsel for the petitioners and after going through impugned order it appears that on the request of the plaintiff - respondent in the suit for partition other co-sharers have been allowed to be added as defendants and the contention of the petitioners that wrong provision of law was quoted in the petition for impleadment is not sustainable in law inasmuch as it is well settled that quoting wrong provision of law in the petition shall not disentitle a party from appropriate relief. It further appears that the learned trial court has also come to the conclusion that the persons sought to be impleaded as party in the suit have right and interest in the suit property. Accordingly, I do not find any infirmity and / or illegality in the impugned order.

In the result, this civil miscellaneous application is dismissed.

praful/-

(Anil Kumar Sinha, J)

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