

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.1482 of 2018

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Sunil Kumar Son of Ram Narayan Singh, Resident of Village-Mustafarpur,
P.S.-Ahiyapur, Dist.-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate Cum Collector, Muzaffarpur.
3. The Sub-Divisional Officer West Muzaffarpur.
4. The Circle Officer, Kanti, Muzaffarpur.
5. Ram Kailash Prasad Son of late Ram BrikshBhagat, Resident of Village-
Mustapur, P.S.-Ahiyapur, Dist.-Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Chandra Mohan Jha Mr. Dhananjay Kumar Singh
For the State	:	Mr. Birendra Prasad Singh, AC to SC 19
For the Res. No. 1 to 5	:	Mr. Arun Kumar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER
ORAL

Date : 25-07-2022

Heard learned Counsel for the parties concerned.

2. The present application has been filed by the petitioner challenging the order, dated 12.02.2018, passed by learned Sub Judge-II, West, Muzaffarpur, in Title Suit No. 1427 of 2015, by which the petition filed by the petitioner under Order I



Rule 10 (2) of the C.P.C. for his impleadment as defendant in the suit filed by the respondent no. 5 has been rejected.

3. The dispute, in the suit, pertains to a piece of land, having Thana No. 510, Khata No. 935, Khesra No. 1559, admeasuring 5 dhurs, situated in Mouza Mustafapur, in the district of Muzaffarpur.

4. The petitioner filed an application for his impleadment as defendant in the suit on the ground that the suit land is public land and the same is being used by the petitioner as passage/road for his ingress and egress since long.

5. Learned Counsel for the petitioner submits that the suit land was encroached upon by the plaintiff-respondent no. 5, for which the petitioner initiated a proceeding under Section 133 of the Code of Criminal Procedure, 1973, before the learned Sub Divisional Officer, West, Muzaffarpur, in which the learned Sub Divisional Officer, West, Muzaffarpur, passed an order, dated 16.08.2016, directing for removal of encroachment from the suit land. He further submits that the petitioner had also approached this Court by filing Cr.W.J.C. No. 240 of 2016, contending that the respondent no. 5 has encroached upon the suit land and this Court, by order, dated 28.03.2016, was pleased to dispose the writ application with a direction to the Sub Divisional Officer, West,



Muzaffarpur, to act in accordance with law and in terms of the guidelines issued by this Court, in the case of **Sanjay Jha v. The State of Bihar and Others**, reported in **2016 (1) PLJR 248**.

6. In the aforesaid background, learned Counsel submits that the petitioner filed an application under Order I Rule 10 (2) of the C.P.C. for his impleadment in the suit filed by the plaintiff-respondent no. 5, who is claiming his title over the suit land on the ground of adverse possession.

7. By the impugned order, the learned Court below has rejected the application filed by the petitioner for his impleadment in the suit as defendant.

8. On the other hand, learned Counsel for the State submits that 20-feet wide public road is already available near the house of the petitioner and the petitioner has been using that public road for the purpose of ingress and egress.

9. Learned Counsel for the respondent no. 5 submits that the petitioner has been examined as a witness on behalf of the State and is having no interest upon the suit land. The dispute is between the respondent no. 5 and the State.

10. I have heard learned Counsel for the parties concerned and have gone through the materials on record, including the impugned order.



11. From the materials on record, it appears that the petitioner has been pursuing his remedy from pillar to post, including the High Court, regarding his right over the suit land as public road and, accordingly, he is having some interest in the subject matter of the suit. The respondent no. 5-plaintiff is also not denying that the suit land is public road, but he is claiming title over the suit land on the basis of adverse possession.

12. Accordingly, I come to the conclusion that the petitioner is a proper party having interest upon the suit land inasmuch as according to the petitioner, the same has been recorded in the survey khatiyan as public land (*Gair Mazarua Bihar Sarkar*), which the petitioner has been using for many years and according to the petitioner, the plaintiff-respondent no. 5 has encroached upon the said public land.

13. In view of the aforesaid, the impugned order, dated 12.02.2018, passed by learned Sub Judge-II, West, Muzaffarpur, in Title Suit No. 1427 of 2015, is set aside and the application filed by the petitioner for his impleadment as defendant under Order I Rule 10 (2) of the C.P.C. is allowed. The petitioner is directed to be added as defendant in Title Suit No. 1427 of 2015.



14. The learned Court below is further directed to dispose the suit on its own merit as early as possible, preferably within a period of one year from today.

15. In the result, this application is allowed.

16. However, there shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27-07-2022
Transmission Date	N/A

