

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.174 of 2020**

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Nagendra Singh son of Nageshwar Singh resident of Village- Urdina, P.O.-
Urdina, P.S.- Barun and District- Aurangabad.

... .. Petitioner/s

Versus

1. Sugiya Devi wife of Kuldeep Mahto resident of Village- Maneri Bigha, P.O.
and P.S.- Dehri-on-son and District- Rohtas.
2. Chandradeep Mahto son of Guru Mahto resident of Village- Maneri Bigha,
P.O. and P.S.- Dehri-on-son and District- Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anirudh Kumar Verma
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

ORAL

Date : 18-07-2022

Heard learned Counsel for the petitioner.

2. The petitioner is aggrieved by order, dated 25.09.2019, passed by learned 5th Additional District Judge, Aurangabad, in Title Appeal No. 40 of 2018/15 of 2019, whereby learned Appellate Court has allowed the petition filed by the plaintiffs-respondents, under Order XXII Rule 10 read with Section 151 of the C.P.C., permitting the plaintiffs-respondents to add the wife of the petitioner, Smt. Shyama Devi, the Branch Manager, Central Bank of India, Aurangabad Branch and the Regional Manager, Central Bank of India, Regional Office, Maurya Lok Complex, Patna, as respondents in title appeal.



3. Title Suit No. 62 of 2010 was filed by the respondents-plaintiffs, which was decreed on 22.06.2018, whereby the defendants-appellants were directed to hand over the vacant possession of the suit land in favour of the plaintiffs-respondents. The plaintiffs have filed Execution Case No. 20 of 2018 against the petitioner for execution of decree. During the pendency of the execution case and the appeal as well, the Branch Manager, Central Bank of India, Aurangabad Branch, published a notice in the Hindustan daily newspaper, dated 02.12.2018, for auction sale of the suit property/land, for which a decree was passed in favour of the respondent-plaintiff. It is the case of the respondents-plaintiffs that they came to know that the suit land has been mortgaged by the judgment debtor no. 2, i.e. the petitioner and his wife Smt. Shyama Devi, proprietors of M/s Babu Baijnath Agro Private Limited, without having any right and title during the pendency of Title Suit No. 62 of 2010. In that background, under Order XXII Rule 10 of the C.P.C., the respondents-plaintiffs filed a petition before the learned Appellate Court for impleading the wife of the petitioner, Smt. Shyama Devi, the Branch Manager, Central Bank of India, Aurangabad Branch and the Regional Manager, Central Bank of India, Regional Office, Maurya Lok Complex, Patna, as respondents in the appeal.



4. Learned Counsel for the petitioner submits that the wife of the petitioner is not concerned with the suit land and it was the petitioner, in his capacity as proprietor of M/s Babu Baijnath Agro Private Limited, had mortgaged the suit land, as such, the wife of the petitioner is not a necessary party. He further submits that he is not challenging the part of the order by which the Branch Manager, Central Bank of India, Aurangabad Branch and the Regional Manager, Central Bank of India, Regional Office, Maurya Lok Complex, Patna, have been impleaded as respondents in the appeal.

5. I have heard learned Counsel for the petitioner and have gone through the impugned order. From the facts brought before this Court, it appears that the suit land was mortgaged during the pendency of the suit and the notice for auction sale of the suit land was published during the pendency of appeal. The learned lower Appellate Court has come to the conclusion that in the interest of justice and in order to prevent miscarriage of justice, the petition of the plaintiffs-respondents is fit to be allowed and directed to implead the wife of the petitioner, Smt. Shyama Devi, the Branch Manager, Central Bank of India, Aurangabad Branch and the Regional Manager, Central Bank of India, Regional Office, Maurya Lok Complex, Patna, as respondents in the appeal.



6. Taking into consideration the nature of dispute and the fact that suit land was mortgaged during the pendency of the suit allegedly by the proprietors, consisted of the petitioner and his wife, and the same has been put under auction sale by the bank, I am of the opinion that no prejudice shall be caused to the petitioner, who is the judgment debtor, if the wife of the petitioner, Smt. Shyama Devi, the Branch Manager, Central Bank of India, Aurangabad Branch and the Regional Manager, Central Bank of India, Regional Office, Maurya Lok Complex, Patna, are impleaded as respondents in the appeal. Accordingly, the impugned order does not require any interference by this Court.

7. This application is, accordingly, dismissed.

8. There shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25-07-2022
Transmission Date	N/A

