

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.3 of 2020

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Shujan Singh S/o Vishwanath Singh Resident of Village- Labedaha, P.s.-
Ramgarh, District- Kaimur

... .. Petitioner/s

Versus

1. The State of Bihar through Collector, Kaimur at Bhabhua
2. Circle Officer Ramgarh, District- Kaimur
3. Mukhia of Gram Panchayat Narhan P.S.- Ramgarh, District- Kaimur
4. Binod Kumar Singh S/o Late Ram Murat Singh Resident of Village-
Labedaha, P.s.- Ramgarh, District- Kaimur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Waliur Rahman Mr. Shyam Bihari Singh
For the State	:	Mr. Abhay Kumar Kashyap
For Resp. No. 4	:	Mr. Yogendra Kumar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER
ORAL

Date : 28-06-2022

Heard learned Counsel for the petitioner, learned
Counsel for the State and learned Counsel for respondent No. 4.

2. The petitioner is aggrieved by the order, dated
31.08.2019, passed, by learned Additional District Judge-III,
Kaimur, at Bhabhua, in Title Appeal No. 39 of 2014, by which the
respondent no.4 has been added as respondent in the appeal on an
application, dated 16.10.2017, filed by the respondent no. 4 under
Order I Rule 10 of the C.P.C.

3. Title Suit No. 157 of 2003 was filed by the petitioner for declaration of title and correction of entry made in the revisional survey khatiyani on the basis of the fact that the petitioner is the khatiyani owner of the suit land, on which he has constructed his residential house and is residing for the last many years.

4. Learned Counsel for the petitioner submits that learned Lower Appellate Court, while allowing respondent no. 4 to be added as a party-respondent in the appeal, has committed grave error of law inasmuch as the respondent no. 4 has got no right, title and interest over the said land and has been claiming an easementary right, which cannot be decided in the present appeal.

5. In support of the argument, learned Counsel for the petitioner relies upon a decision of the Supreme Court, in the case of **Ramesh Hirachand Kundanmal v. Municipal Corporation of Greater Bombay and Others**, reported in (1992) 2 SCC 524.

6. On the other hand, learned Counsel for the respondent no. 4 submits that the disputed land/suit land is recorded, in the old and new survey khatiyani, as *Sarv Saadharan Aam*, and the villagers have been using that land as passage. Accordingly, respondent no. 4, after coming to know about the present appeal, has filed an application under Order I Rule 10 of the C.P.C before

the learned Lower Appellate Court for the just decision of the appeal and since the respondent no. 4 has some interest in the suit land, he can be added as a party for an effective and complete adjudication of the appeal. He further submits that respondent no. 4 has bona fide interest in the suit land inasmuch as he has some interest in the decision of the appeal as the said Suit land is being used as passage by the respondent no.4.

7. In support of the argument, learned Counsel for the respondent no. 4 has placed reliance on a decision of this Court, in the case of **Shakuntala Devi and Others v. Malik Mandal and Others**, reported in **2008 (1) PLJR 479**.

8. I have perusal the impugned order. It appears that the learned Lower Appellate Court after hearing the parties has come to the conclusion that for the proper adjudication of the appeal and in the interest of the justice, respondent no. 4 can be added as a party in the appeal and has allowed his application for impleadment as party, subject to the cost of Rs 10,000/-.

9. Paragraph 4 of **Shakuntala Devi** (supra) reads as follows:

“4. While arguing the review petition, learned counsel for the petitioner cited the authority of the Apex Court in the case of **Dhanurdhar Prasad Singh vs. Jai Prakash University and Others** (AIR

2001 SC 2552). It was a case of devolution of estate on the death of a party and in that case the Apex Court held that the person on whom the interest has devolved was a necessary party to be added under Order XXII, Rule 10 C.P.C. though in Para-25 of the judgment. It was also held by the Apex Court that prayer for leave to add party can be made not only by a person upon whom interest has devolved but also by the plaintiff or any other party or person interested.”

10. From the judgment of this Court, in the case of **Shakuntala Devi** (supra), as above, it appears that this Court has relied upon a decision of the Supreme Court, in the case of **Dhanurdhar Prasad Singh vs. Jai Prakash University and Others (AIR 2001 SC 2552)**, in which it has been held that the prayer for leave to add party can be made not only by a person upon whom interest has been devolved but also by the plaintiff or any other party or person interested.

11. The judgment relied upon by the petitioner, in the case of **Ramesh Hirachand Kundanmal** (supra) is not applicable in the facts of the present case.

12. From the facts of the present case and the nature of interest shown by the respondent no.4 over the suit property, I am of the opinion that the learned Lower Appellate Court has not

committed any material irregularity or jurisdictional error in allowing the petition filed under Order I Rule-10 of the C.P.C.

13. I do not find any merit in this present application.

This application is, accordingly, dismissed.

14. There shall be no order as to costs.

(Anil Kumar Sinha, J.)

shobha/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	29-06-2022
Transmission Date	N/A