

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.563 of 2017

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Ramashankar Ram S/o Late Kailash Ram, Resident of Village- Akhini, P.S.
Ramgarh at present Nuaon, District- Kaimur Bhabhua.

... .. Petitioner

Versus

1. The State of Bihar
2. The Circle Officer, Nuaon, District- Kaimur Bhabhua,
3. Janki Singh.
4. Manki Singh.
5. Kamala Singh, All (3 to 5) Sons of Late Damari Singh.
6. Bedi Kuer, W/o Late Shivpujan Singh.
7. Sohan Yadav,
8. Mohan Yadav,
9. Bharat Yadav, All (7 to 9) S/o Shiv Pujan Singh.
10. Birendra Yadav, Son of Sanmukh Yadav.
11. Bajrangi Yadav, S/o Late Sudarshan Yadav. All Respondents no. 3 to 11 ,
Resident of Village- Akolhi, P.S. Ramgarh at Present Nuaon, District-
Kaimur.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Ravi Shankar, Advocate Mr. Ramakant Ram, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, SC19 Mr. Parth Gaurav, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL ORDER

10 08-08-2023 Heard learned counsel for the parties.

2. This Civil Miscellaneous application has been filed
under Article 227 of the Constitution of India against the order
dated 08.02.2017 passed by the learned Munsif, Kaimur at



Bhabua in Title Suit No. 266 of 2003 whereby he has rejected the petition dated 16.05.2016 of the petitioner for impleadment of the petitioner in the suit as party-defendant.

3. The brief facts of the case are that plaintiffs / respondent Nos. 3 to 9 have filed Title Suit No. 266 of 2003 in the Court of learned Munsif, Kaimur at Bhabua for a relief to declare their right, title and possession over the suit land and further with a relief to prevent the defendant not to interfere with their title and possession over the disputed land. The suit has been filed claiming that the disputed land was settled by the ex-landlord in favour of the ancestor of the plaintiffs. The State of Bihar filed written statement and denied the claim and contentions of the plaintiffs. The petitioner filed a petition under Order 1 Rule 10 C.P.C. for impleading him as a party-defendant claiming that the Suit property i.e. Plot No. 538, Area-50 Decimal, Khata No. 264, Mauza- Belhari, P.S. Nuaon, Thana No. 251, District Kaimur (Bhabua) was settled by the State of Bihar in favour of mother of the petitioner, namely, Lokiya Devi and purcha was issued in her name and possession was also handed over to her in her favour and Jamabandi was created in her name and she paid rent revenue to the State of Bihar also. After death of her mother on 26.01.2015, the petitioner has



right, title and possession on the land settled in his mother's name. When he came to know about the present suit in which his property is involved he filed the impleadment petition. The said impleadment petition of the petitioner has been rejected.

4. Learned counsel for the petitioner submits that the learned Court below failed to appreciate that petitioner is the necessary party in the suit since the suit property was settled by the State of Bihar in the name of her mother and the adjudication in the suit shall affect the title and possession of the petitioner on the suit property. He further submits that the plaintiffs have made the party to the other similarly situated persons as party defendants and it is in the interest of justice that the petitioner be also made one of the party- defendants so that he can contest the suit. He further submits that during the evidence, one Revenue Staff also deposed that Plot No. 538 area 50 decimal is in possession of Lokiya Devi wife of Kailash Ram in whose favour it was settled vide Settlement Case No. 07 of 1985-86 and name of settlee of disputed land have been entered in Register II and they are paying rent to Government against the Revenue Receipts.

5. On the other hand, learned counsel for the plaintiffs / respondent Nos. 3 to 9 submits that the petitioner is neither the



necessary party nor the proper party as there is no claim made in the suit against the petitioner and the suit has been filed against the State of Bihar. It is submitted that in the written statement of the State filed before the trial Court, the State has not stated about the settlement of the suit property to the mother of the petitioner but to the contrary in the counter affidavit it has stated that the suit property has been settled in favour of the mother of the plaintiff which cannot be relied. He further submits that the petitioner has claim, if any against the State of Bihar, he may file the suit against the State of Bihar and the law is well settled that the plaintiff is the *Dominus Litis* of his case. Lastly, he submits that if the petitioner is allowed to be impleaded as party defendant the *de novo* trial shall start which shall prejudice to the plaintiffs and also cause delay the disposal of the suit. He also submits that the petitioner has not stated in his application how and when he got the knowledge about the suit. He also submits that the petitioner filed impleadment petition belatedly after completion of evidence which is liable to be rejected and the learned Court below rightly rejected the same.

6. Learned counsel for the State submits that under the welfare scheme of the State Government, the State Government



vide Settlement Case No. 7 of 1985-1986 settled 0.50 acres land under Mauza Belhari, Thana No. 251, Khata No. 264, Plot No. 538 with one Smt. Laukia wife of Late Kailash Ram (mother of the petitioner) alongwith other land. After settlement of the land with Laukia Devi wife of Late Kailash Ram, Register 2 was prepared in her name and the State Government also received rent revenue upto the financial year 2009- 2010. He has conceded that the petitioner is a necessary party in the suit and he may be impleaded as party-respondent for complete adjudication of the suit between the parties.

7. From perusal of the impugned order it appears that the learned Court below has observed that in the present case petitioner has submitted that Government of Bihar had settled the disputed land in his favour, so from his version it is clear that he is claiming title through the Government of Bihar. Plaintiff has shown his cause of action against the Government of Bihar and has not claimed any relief against the petitioner, and if the petitioner has any other legal grievances against the plaintiff then he may take an independent legal action for redressal of his legal right and accordingly the impleadment application was dismissed by the learned Court below.

8. Law is well settled that the provision of Order 1



Rule 10 (2) of the C.P.C. are very wide and powers of the Court are equally extensive. Even without an applicant to be impleaded as a party, the Court may, at any stage of the proceedings order that the name of any party, ought to have been joined, whether as plaintiff or defendant or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

9. The underlying principles regarding the addition of parties is that there must be finality to the litigation and to secure that purpose it would be incumbent upon the Court to add a party whose presence would be necessary to put an end to all controversy in the litigation finally, “question involved in the suit” referred to in Order 1 Rule 10 CPC means not only the questions involved in the suit originally framed between the parties to the suit but also any dispute between the parties of the suit and a third party, and that the object of the provision is that where several disputes arise out of on subject matter all the parties interested in the such disputes should be brought before the court and all questions in contest between them should be completely settled in the action.

10. The Hon’ble Supreme Court in **Mumbai**



**International Airport private Limited Vs. Regency
Convention Center and Hotels private Limited and Ors.**

(2010) 7 SCC 417 observed that the Court is given the discretion to add as a party, any person who is found to be a necessary party or proper party. A ‘necessary party’ is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the Court. It has been held that if a ‘necessary party’ is not impleaded, the suit itself is liable to be dismissed. A ‘proper party’ is a party who, though not a necessary party, is a person whose presence would enable the Court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be proper or necessary party, the Court has no jurisdiction to implead him, against the wishes of the plaintiff.

11. The Hon’ble Supreme Court in the judgment reported in **Razia Begum Vs. Sahebzadi Anwar Begum and Ors. (AIR 1958 SC 886)** had observed:

“ There cannot be the least doubt that it is firmly established as a result of judicial decisions that a person may be added as a party to a suit he should have a direct interest in the subject matter of the litigation whether it raised questions relating to



movable or immovable property”.

12. In **Rameshchand Kundanmal Vs. Municipal Corporation of Greater Bombay (1992) 2 SCC 524** the Apex Court held in paragraph 14 as under:

“It cannot be said that the main object of the rule is to prevent multiplicity of action though it may incidentally have that effect....It is, therefore, necessary that the person must be directly or legally interested in the action in the answer i.e. he can say that litigation may lead to a result which will affect him legally that is by curtailing his legal rights. It is difficult to say that the rule contemplates joining as a defendant a person whose only object is to prosecute his own cause of action.”

13. Mere addition of the intervenor as a party will not create an interest in the suit property and in considered view of this Court the presence of the intervenor is necessary for efficacious adjudication of this case and addition is also necessary for avoidance of multiplicity of suit.

14. In view of the aforesaid, the impugned order is, accordingly, set aside and the petitioner is allowed to be made party-defendant in the suit. This Civil Miscellaneous Application is, accordingly, allowed.

15. Since the suit is of 2003, the learned Court below is directed to expedite the disposal of the suit and all the parties of the suit shall cooperate the trial Court in expeditious disposal



of the suit and no unnecessary adjournment shall be given to
any party.

(Sunil Dutta Mishra, J)

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