

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.175 of 2018

Bishwanath Singh Son of Late Setwan Singh, Resident of Village-Bhairwar,
P.S.-Muffasil, Sub-Division, Sub Registry and District-Begusarai.

... .. Petitioner

Versus

- 1.1. Subodh Singh Son of Late Sadanand Singh, Resident of Village and P.O. - Bhairvar, Sub-Div. and District - Begusarai, Pin - 851129.
- 1.2. Sushil Singh Son of Late Sadanand Singh, Resident of Village and P.O. - Bhairvar, Sub-Div. and District - Begusarai, Pin - 851129.
- 1.3. Tinku Singh Son of Late Sadanand Singh, Resident of Village and P.O. - Bhairvar, Sub-Div. and District - Begusarai, Pin - 851129.
- 1.4. Rinku Singh, Son of Late Sadanand Singh, Resident of Village and P.O. - Bhairvar, Sub-Div. and District - Begusarai, Pin - 851129.
2. Shail Devi Wife of Late Suresh Singh. Village Bhairvar, P.S. - Muffasil, Sub-Division and District - Begusarai.
- 3.1. Vipin Singh Son of Late Parmanand Singh Resident of village and P.O. - Bhairvar, Sub-Division and District - Begusarai.
- 3.2. Ajya Singh, Son of Late Parmanand Singh, Resident of village and P.O. - Bhairvar, Sub-Division and District - Begusarai.
- 3.3. Krishna Devi Wife of Ram Sohan Singh village and Post - Manjhoul (Purvari Tola), P.S. Manjhoul, District - Begusarai, Pin - 851127.
- 3.4. Nilam Devi, Wife of Anil Singh, Village and Post - Bihat, District - Begusarai, Pin - 851135.
- 3.5. Renu Devi, Wife of Ramesh Singh, Village and Post - Bihta, District - Patna, Pin - 8011023.
4. Naresh Singh. Son of Shiv Nandan Singh Village Bhairvar, P.S. - Muffasil, Sub-Division and District - Begusarai.
5. Ram Rajeshwar Singh Son of Late Nunu Singh, Resident of Village-Manjhaul P.S.-Cheriya Bariarpur, Sub-Division-Majhoul, District-Begusarai.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Amresh Kr. Verma, Advocate
For the Respondent/s : Mr. Pritish Kumar Lal, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

14 28-08-2023

Heard the parties.

2. By the impugned order dated 09.11.2017



passed by the learned Sub Judge-I, Begusarai in Title Suit No. 405 of 2016, the application filed by the petitioner under order 1 Rule 10(2) of C.P.C. for his impleadment as intervenor defendant in the suit has been rejected.

3. It has been contended by learned counsel for the petitioner that the suit property described in Schedule-1 of the plaint along with other land was purchased by late Ishwari Singh, son of of late Badri Singh in the state of jointness with his five brothers from the income of joint family of late Badri Singh through sale deed dated 23.07.1923. The petitioner is the great grandson of one of the five brothers of late Ishwari Singh namely, Gango Singh, son of late Badri Singh and he accordingly inherited 1/6 share in the joint land by rule of survivorship. It has further been contended that the plaintiffs in collusion with the sole defendant - Sadanand Singh, who is the grand son of late Ishwari Singh has filed the suit with false claims and allegations against the registered sale deed wanting to grab 1/6 share of the petitioner.

4. In the Court below, the plaintiff has submitted that Triloki Singh was the ancestor of the plaintiff who died leaving behind three sons namely, Bachcha Singh, Hirdai Singh and Gorelal Sing. Bacha Singh and Hirdai Singh



died, whose heirs have not been made party. Gorelal Singh also died leaving four sons, who are plaintiffs. Bachcha Singh, the karta of the joint family, had purchased the suit land in the name of his *Mamu* namely, Ishwari Singh by sale deed dated 23.07.1923 in the state of jointness with his two brothers.

5. The only dispute between the parties is as to whether the land belongs to five brothers or three brothers and this cannot be decided by the Sub Judge at the stage of addition of the party. If the intervenor is permitted to be added as party, there will be no multiplicity of litigation. Whether the petitioner has share in the suit property or not can be decided only in the suit. By not adding the intervenor as defendant, there will be multiplicity of litigations. In the opinion of this Court, the impugned order cannot be sustained.

6. Accordingly, this application is allowed. The order dated 09.11.2017 passed by the Sub Judge-I, Begusarai in Title Suit No. 405 of 2016 is set aside. The petitioner/intervenor is directed to be added as defendant in the suit.

(Sandeep Kumar, J)

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