

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1639 of 2018**

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Ram Kumar Singh @ Ram Kumar, Son of Aklu Singh R/o Village-Pora, Post-Parari, P.S. Chenari, Dist-Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Anchaladhikari, Chenari, Dist-Rohtas.
3. Santan Singh, Son of Late Ram Lagan Singh.
4. Shivpujan Singh, Son of Late Ram Lagan Singh.
5. Kachahari Singh, Son of Late Ram Lagan Singh.
6. Arjun Singh, Son of Late Fagu Singh, All r/o Village-Pora, Post-Parari, P.S.-Chenari, District-Kaimur at Bhabhua.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Kumar Pandey, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, SC 19
		Mr. Manoj Kumar Sinha, AC to SC 19

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

3 27-02-2023 Heard learned counsel for the parties.

2. This application has been filed for quashing the order dated 24.08.2018 passed by learned Sub-Judge 1, Rohtas at Sasaram in Title Suit No. 992 of 2012 by which the petition under Order 1 Rule 10 (2) of the CPC filed by respondents no. 3 to 6 (respondent 2nd Set) for impleadment as defendants has been allowed.

3. The brief facts of this case is that the plaintiff/petitioner filed Title Suit No. 992 of 2012 in the court of learned Sub-Judge, Rohtas at Sasaram for declaration of title for the suit land. It is stated that the ex-landlord settled the



disputed land being Gairmazarua Malik land in favour of petitioner's father namely Aklu Singh and issued Malikana receipt in his favour and the petitioner's family after settlement of the aforesaid land, came in possession of disputed land and doing cultivation. After vesting of Zamindari, the return was also filed in the name of the petitioner's father and his name was entered in Register-II of Revenue Records also.

4. The further case of the plaintiff/ petitioner is that the Karamchari of Anchal threatened the petitioner for dispossession from the disputed land stating that the said land is the land of Bihar Sarkar. From the copy of the revisional survey, it appears that the disputed land was shown in the name of Anabad Bihar Sarkar and in the remark column the possession of the Aklu Singh, the father of the petitioner was shown.

5. During the pendency of the suit respondent 2nd Set filed the petition for impleading them as defendants on the ground that they have purchased the suit land containing one Bigha 10 Katha by registered sale deeds dated 19.05.1959 and 27.11.1961 from Bhagwan Prasad Singh.

6. It is stated in the petition that proceeding under Section 144 was initiated between the parties in which petitioner was found in possession over the disputed land.



7. Learned counsel for the petitioner submits that respondent 2nd Set has no concern with the disputed land and the sale deeds which were executed by Bhagwan Prasad Singh, the brother-in-law of Singori Devi (the ex-landlord) after vesting of *Zamindari* was not legally entitled to execute the said sale deeds. Further, it is submitted by the learned counsel for the petitioner that the court below failed to appreciate the fact that the sale deeds executed in question were fraudulent act and had never been acted upon. Lastly, it is submitted that the impleadment of respondent 2nd Set in the suit is not proper and liable to be set aside.

8. The principles with respect to impleadment of the party under Order 1 Rule 10 is well settled. The Hon'ble Supreme Court in the case of **Vidur Impex and Traders Pvt. Ltd. Vs. Tosh Apartments Pvt. Ltd. & Ors. 2012(8) SCC 384** has laid down the broad principles which should govern disposal of an application for impleadment are:-

“(1) The court can, at any stage of the proceeding, either on an application made by the parties or otherwise, direct impleadment of any person as party, who ought to have been joined as plaintiff or defendant or whose presence before the court is necessary for effective and complete adjudication of the issues involved in the suit.

(2) A necessary party is the person who



ought to be joined as party to the suit and whose absence an effective decree cannot be passed by the court.

(3) A proper party is a person whose presence would enable the court to completely, effectively and properly adjudicate upon all matters and issues, though he may not be a person in favour of or against whom a decree is to be made.

(4) If a person is not found to be a proper or necessary party, the court does not have the jurisdiction to order his impleadment against the wishes of plaintiff.

(5) In a suit for specific performance, the court can order impleadment of a purchaser whose conduct is above board, and who files application for being joined as party within reasonable time of his acquiring knowledge about pending litigation.

(6) However, if the applicant is guilty of contumacious conduct or is beneficiary of a clandestine transaction or a transaction made by the owner of the suit property in violation of the restraint order passed by the court or the application is unduly delayed then the court will be fully justified in declining the prayer for impleadment.”

9. Having heard the learned counsel for the petitioner and on perusal of material on record and the impugned order, it appears that the court below considering the claim of the respondent 2nd Set that they have purchased the suit land and have possession on the same and the revenue receipts are also



issued in their favour and allowed the application for impleadment as intervening defendants.

10. It appears that plaintiff and respondent 2nd Set both are claiming their title and possession on the suit property then respondent 2nd Set is a necessary party and whose presence would enable the court to completely, effectively and properly adjudicate upon the matter in issue.

11. Considering the facts and circumstances of the case and aforesaid provisions, I am of the considered view that the impugned order has no illegality or error and requires no interference by this court under supervisory jurisdiction under Article 227 of the Constitution. Hence, this Civil miscellaneous Jurisdiction application is dismissed.

(Sunil Dutta Mishra, J)

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