

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.693 of 2022

Mukesh Kumar, S/o Late Suresh Chandra Sharma @ Suresh Mistri, a resident of Village and P.O.- Thuthi, P.S.- Chautham, District- Khagaria.

... .. Petitioner

Versus

- 1.1. Vibha Singh (Widow) W/o Late Vinay Kumar Singh, Resident of Village and P.O. - Thuthi, P.S. - Chautham, District- Khagaria.
- 1.2. Vipul Kumar (Son), S/o Late Vinay Kumar Singh, Resident of Village and P.O. - Thuthi, P.S. - Chautham, District- Khagaria.
- 1.3. Nikhil Kumar (Son), S/o Late Vinay Kumar Singh, Resident of Village and P.O. - Thuthi, P.S. - Chautham, District- Khagaria.
- 1.4. Nishant Raj (Son), S/o Late Vinay Kumar Singh, Resident of Village and P.O. - Thuthi, P.S. - Chautham, District- Khagaria.
- 1.5. Vijeta Kumari (Daughter), D/o Late Vinay Kumar Singh, Resident of Village and P.O. - Thuthi, P.S. - Chautham, District- Khagaria.
- 1.6. Raja Kumar (Son), S/o Late Vinay Kumar Singh, Resident of Village and P.O. - Thuthi, P.S. - Chautham, District- Khagaria.
2. Faduri Mistri, S/o Late Fucho Mistri.
3. Shibu Mistri, S/o Late Fucho Mistri.
4. Kailash Mistri, S/o Late Fucho Mistri.

All are Resident of Village and P.O.- Thuthi, P.S.- Chautham, District- Khagaria.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. A.B. Ojha, Sr. Advocate Mr. Nitesh Kumar, Advocate
For the Respondent/s	:	Mr. Rajesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 31-10-2023 Heard Sri A.B. Ojha, learned senior counsel assisted by Sri Nitesh Kumar, learned counsel for the petitioner and Sri Rajesh Kumar, learned counsel for the respondents.

2. This application has been filed for quashing of the order dated 23.08.2022 passed by learned Munsif, Khagaria in Title Suit No.26 of 2010, by which he has allowed the intervention application of the respondent nos. 2 to 4 filed under Order 1 Rule 10(2) read with section 151 of the Code of



Civil Procedure for adding them as parties in the suit.

3. Learned senior counsel for the petitioner submits that the intervention application of the respondent nos. 2 to 4 ought to have been dismissed by the learned Munsif in view of the application dated 25.11.1976 filed in the Court of Circle Officer, Choutham, District-Munger, by Fucho Mistri, who is the father of the intervenors as he had supported the mutation of the lands in dispute in the name of Suresh Sharma, son of late Laxmi Mistri and has submitted that he has no share in the lands in dispute.

4. Learned senior counsel for the petitioner has relied upon a decision of the Hon'ble Supreme Court in the case of *Nagindas Ramdas v. Dalpatram Iccharam* reported in *AIR 1974 SC 471* and has submitted that once there is an admission by the party in the suit, his addition as defendant in the suit is not proper.

5. Learned counsel for the respondents opposes the application of the petitioner and submits that the impugned order cannot be interfered with as the intervenor defendants and the plaintiff have to support their respective claims in the suit property. He further submits that genealogical table is admitted and the intervenors are necessary and proper parties but without



making them as defendants the suit was filed.

6. I have considered the submissions of the parties. It is an admitted fact that all the respondent nos. 2 to 4-intervenors are the co-sharers of the plaintiff and if they claim right, title and interest in the suit property then they should be added and heard in the suit for avoiding the multiplicity of suit and for just decision of the case.

7. In my opinion, the submission of learned senior counsel for the petitioner that in view of admission of the father of the intervenors, they should not be added as party in the suit cannot be sustained as whether the application was filed by the father of the respondent nos. 2 to 4 - intervenors or not is a matter, which can be decided in the suit and on the basis of submission of the plaintiff, the respondent nos. 2 to 4-intervenors cannot be denied the right to oppose the suit by becoming a party.

8. In view of the aforesaid, I do not find any illegality and infirmity in the impugned order. Hence, this application is dismissed.

(Sandeep Kumar, J)

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