

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1426 of 2018

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Baleshwar Mahto, Son of Late Kuldeep Mahto, Resident of Village- Pirnagar, P.O.- Gamahriya, P.S. Naokothi, District- Begusarai.

... .. Petitioner/s

Versus

1. Sri Upendra Narayan Singh @ Upendra Singh, Son of Late Dhuna Singh, Resident of Village- Pahsara, P.S. Naokothi, Subdivision- Bakhri, District- Begusarai.
2. Sri Bibhay Kumar Singh
3. Sri Bijay Kumar Singh, Both are sons of Krishna Chandra Prasad Singh
4. Smt. Laxmi Devi, widown of Late Binay Kumar Singh.
All are resident of Village- Dhanaur, P.O.- Dhanaur, Respondent No. 2 to 4 P.S.- Koatara, District- Muzaffarpur.
5. Smt. Upasana Devi, daughter of Late Binay Kumar Singh and wife of Sri Alok Kumar, resident of Village- Mangalpur, District- West Champaran Bettiah.
6. Basudeo Mahto, son of Late Shibu Mahton, resident of Village- Pirnagar, P.O.- Gamahriya, P.S. Naokothi, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Singh, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

Date : 12-01-2023

This Miscellaneous application has been filed by the petitioner for setting aside the order dated 02.02.2018 passed by learned Munsif, Bakhari, Begusarai in the petition filed by the intervenor under Order- 1 Rule 10(2) and Section 151 of the Civil Procedure Code in Title Suit No. 41 of 2014 for adding him as defendant.

2. Heard learned counsel for the petitioner.

3. It is submitted by the learned counsel for the petitioner that the petitioner has purchased 13 katha 12 dhur of Mauza-Pansara, Pargana, Bhusari, Thana No. 183, Tauzi No. 1077,



under Khata No. 448, kheshra No. 1356 through registered sale deed on 24.08.2012 executed by defendant No. 2/Respondent No. 3 and came in possession for cultivation, although Kheshra no. 1356 does not find in the schedule of the plaint but the same has been mentioned in the compromise petition filed on behalf of the parties before the Trial Court in which this Kheshra number and Plot number had also been mentioned. He has also filed the copy of sale deed of the said plot which has been purchased by him. Accordingly, it is submitted that petitioner is the necessary party. However, ignoring these facts the learned Trial Court has passed the impugned order. It is, however, conceded by the learned counsel for the petitioner that inadvertently the said sale deed was not filed before the Trial Court. Lastly, it is submitted that for proper adjudication of suit the petitioner ought to be given opportunity for filing necessary sale deed which was not filed earlier and no prejudice would be caused to any party if the petition be decided on merit after considering the proper and necessary document.

4. It appears, from the impugned order that Khata No. 874, Kheshra No. 1356 was not mentioned in the deed of defendant No. 2 and he has also not given any documents in support of the same. It appears from the perusal of copy of compromise application of parties in the suit filed here as



Annexure-3 Khata No. 448, Kheshra No. 1356 which the petitioner is claiming as purchased land through registered sale deed is also mentioned therein. Accordingly, it is in the interest of justice that the petitioner may be given one opportunity to produce the aforesaid sale deed before the court concerned for deciding the application for impleadment of the petitioner. It appears that compromise petition has been filed on behalf of the parties and the same is required to be disposed of expeditiously.

5. Accordingly, the impugned order dated 02.02.2018 passed by the learned Munsif, Bakhari, Begusarai in Title Suit No. 41 of 2014, is set aside with direction to the petitioner to file the said document within six weeks before the court concerned in support of his application and the Trial Court shall pass the appropriate order on the impleadment petition of the petitioner expeditiously in accordance with law.

6. In view of the facts and circumstances of the case, this Civil Miscellaneous application is disposed of at the stage of admission itself with aforesaid direction.

(Sunil Dutta Mishra, J)

khushbu/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	18.01.2023
Transmission Date	

