

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.413 of 2024

Om Prakash Singh@Munna Singh S/O Madan Singh Resident of village-
Purbari Telpa, Newaji Tola, P.O.-Gurukul Mehia, P.S.- Chapra Mufassil,
Distt-Saran at Chapra.

... .. Petitioner

Versus

1. Musmat Sumitra Kuwar Wife of Late Kaushal Kishore Singh Resident of Village-Purbi Telpa, Newaji Tola, P.O.-Gurukul Mehia, P.S.- Chapra Mufassil, Distt-Saran at chapra.
2. Sunil Kumar Singh S/O of Late Kaushal Kishore Resident of village-Purbi Telpa, Newaji Tola, P.O.-Gurukul Mehia, P.S.- Chapra Mufassil, Distt-Saran at Chapra.
3. Pushpa Devi (D/O- Late Kaushal kishore singh),wife of Sanjay Kumar Singh Resident of village-Purbi Telpa, Newaji Tola, P.O.-Gurukul Mehia, P.S.- Chapra Mufassil, Distt-Saran at Chapra.
4. Parshuram Singh S/O Late Ram Pravesh Singh Resident of village-Purbi Telpa, Newaji Tola, P.O.-Gurukul Mehia, P.S.- Chapra Mufassil, Distt-Saran at Chapra.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Kamala Kant Tiwary, Advocate
For the Respondent/s : Mr. Manoj Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 08-10-2024

Heard learned counsels for the respective parties and I intend to dispose of the present petition at the stage of admission itself.

02. The present civil miscellaneous petition has been filed under Article 227 of the Constitution of India by the petitioner for quashing the order dated 03.01.2024 passed by the learned Additional District Judge-IV, Saran at Chapra in Title Appeal No. 117 of 2013, whereby and whereunder the petition



dated 18.04.2023 filed by the plaintiffs/appellants under Order-6 Rule 17 and Order-1 Rule 10 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'the Code') for amendment in the plaint and addition of purchasers of suit land as parties has been allowed.

03. Learned counsel for the petitioner submits that the petitioner is the defendant no.1 and respondent before the learned trial court as well as learned first appellate court, respectively. During pendency of the appeal, a petition has been filed on behalf of the plaintiffs/appellants/respondents on 18.04.2023 under Order-6 Rule 17 and Order-1 Rule 10 of the Code for making the subsequent purchasers as parties in the title appeal and also for bringing the facts of so called dispossession of the plaintiffs/appellants from the suit land on record and they have also sought relief of recovery of possession by way of amendment. Learned counsel further submits that the learned trial court committed error when it allowed the petition for amendment and impleadment of the parties. It is true that the defendant no. 1/petitioner sold the land to Dheeraj Kumar and Kameshwar Singh but the defendant no. 1/respondent was not having any knowledge of the pending appeal or any interim order for maintaining *status quo* over the suit property. Learned



counsel further submits that the judgment and decree went against the plaintiffs and the possession of the petitioner was upheld by the learned trial court and the possession of the plaintiffs was disbelieved. So, the whole story of dispossession being brought by way of amendment petition is not believable. The plaintiffs want to fill up the lacunae in the case and have made up a story of dispossession. Thus, the learned counsel submits that the impugned order is not sustainable and hence, the same needs to be set aside.

04. Learned counsel appearing on behalf of respondent nos. 1 to 4 submits that the respondents are the plaintiffs before the learned trial court and appellant in the first appellate court and they were dispossessed from the suit land on 16.04.2022, which is a subsequent even and for this reason, it is necessary for the plaintiffs/appellants/respondents to bring this fact on the record of the learned first appellate court and to seek the relief of recovery of possession as failure to the same would dis-entitle the appellants/respondents from seeking same relief in future. Learned counsel further submits that further subsequent event took place when the defendant no. 1 sold the suit land to two persons despite there being a *status quo* order in the title appeal. Thus, the learned counsel submits that the



amendments are necessary to reflect subsequent event and, moreover, no prejudice is caused to the petitioner of this case by the aforesaid amendment. Thus, the learned counsel submits that the impugned order does not suffer from any irregularity and illegality and the same needs to be sustained.

05. I have given my thoughtful consideration to the rival submission of the parties and perused the case record.

06. Admittedly, Dheeraj Kumar and Kameshwar Singh are the purchasers of the suit property from the defendant no. 1. No doubt, their fortune would vary according to fortune of their vendor with regard to the suit property and the outcome of the appeal would be affecting the vendor as well as the purchasers. Thus the subsequent purchasers may not be necessary parties but they are proper parties and their presence would enable the learned first appellate court to effectively decide the issue before it.

07. Further, the opposition of the petitioner to the amendment in the plaint is on the ground that the learned trial court has not believed the story of possession of the plaintiffs/appellants and for this reason, allowing the amendment at this stage would affect the rights of the defendant no.1/respondent/petitioner. The appeal is continuation of trial



and the rights of the parties are yet to be finally decided. If the plaintiffs have raised this matter at the appellate stage giving a date of their dispossession after the decree against them in learned trial court and the same is not barred under the law of limitation, it is incumbent upon the court to consider this plea and it is also stated to be a subsequent event which occurred during pendency of the appeal, such amendment should be allowed to be brought on record subject to opportunities to other-side to rebut/controvert the said amendment. Therefore, I do not find any infirmity in the impugned order dated 03.01.2024 passed by the learned Additional District Judge-IV, Saran at Chapra in Title Appeal No. 117 of 2013 and hence, the same is hereby affirmed.

08. However, the defendant no.1/respondent/petitioner will be given ample opportunity to controvert/rebut the claim of the plaintiffs/appellants/respondents sought to be brought on record through the amendment. It is also made clear that the newly added parties in the memo of appeal would not get any right apart from what is already available to their vendor.

09. Since it is an old case of the year 2013, the learned first appellate court is directed to dispose of the Title Appeal No. 117 of 2013 within a period of six months from the date of



receipt/production of a copy of this order without granting unnecessary adjournments to either of the parties.

10. With the aforesaid observations, the present petition stands disposed of.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.10.2024
Transmission Date	NA

