

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.259 of 2016

Surendra Thakur, S/o Late Jagdish Thakur, Resident of Village- Rupauli Ghat,
P.O.- Rupauli Ghat, P.S.- Bishanpur, Distt.- Darbhanga.

... .. Petitioner/s

Versus

1. Chandu Thakur, S/o Late Ram Dev Sharma, Resident of Village- Rupauli Ghat, P.O.- Rupauli Ghat, P.S.- Bishanpur, Distt.- Darbhanga.
2. Ravi Narayan Thakur, S/o Late Ram Chandra Thakur, Resident of Village- Rupauli Ghat, P.O.- Rupauli Ghat, P.S.- Bishanpur, Distt.- Darbhanga.
- 3.1. Sabita Devi, W/o Late Suresh Thakur, resident of Village and Post-Rupauli, P.S.-Bishanpur (Hanuman Nagar), District-Darbhanga.
1. Gayatri Devi, D/o Late Suresh Thakur, W/o not known,
- 2.
- 3.1. Subhadra Devi D/o Late Suresh Thakur, W/o not known,
- 3.
- 3.1. Chandni Devi, D/o Late Suresh Thakur, W/o not known,
- 4.
- 3.1. Kishori Devi D/o Late Suresh Thakur, W/o not known,
- 5.
- 3.2. Dinesh Thakur S/o Late Ram Bharosh Thakur Resident of Village and P.O.- Rupauli Ghat, P.S.- Bishanpur, District- Darbhanga.
- 3.3. Krishna Mohan Thakur S/o Late Ram Bharosh Thakur Resident of Village and P.O.- Rupauli Ghat, P.S.- Bishanpur, District- Darbhanga.
4. Laxmi Kant Sharma, S/o Late Basu Dev Thakur Resident of Village- Rupauli Ghat, P.O.- Rupauli Ghat, P.S.- Bishanpur, Distt.- Darbhanga.
5. Sudhir Kumar Sharma, S/o Laxmi Kant Sharma Resident of Village- Rupauli Ghat, P.O.- Rupauli Ghat, P.S.- Bishanpur, Distt.- Darbhanga.
6. Ashok Thakur, S/o Late Jeewachh Thakur, Resident of Village- Rupauli Ghat, P.O.- Rupauli Ghat, P.S.- Bishanpur, Distt.- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Verma, Advocate Mr. Suman Kumar Verma, Advocate Mr. Anish Kumar, Advocate MR. Amresh Kumar Mishra, Advocate Ms. Auysbi Singh, Advocate
For the Respondent/s	:	Mr. Shailendra Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 14-05-2024

Heard learned counsel for the petitioner as well as



learned counsel for the respondent nos. 3(ii), 4, 5 and 6 on the point of admission and I intend to dispose of the present petition at the stage of admission itself.

2. The petitioner has filed the instant petition under Article 227 of the Constitution of India for setting aside the order dated 06.04.2016 passed by the learned Sub Judge-IV, Darbhanga in Title Suit No. 267 of 2012 whereby and whereunder the learned Sub Judge-IV, Darbhanga rejected the petition dated 20.02.2016 filed on behalf of the petitioner under Order I Rule 10 of the Code of Civil Procedure (hereinafter referred to as 'the Code') seeking impleadment of the State of Bihar through the Collector, Darbhanga, DCLR, Sadar, Darbhanga and the Circle Officer, Hanuman Nagar, Darbhanga as defendant nos. 7, 8 and 9 in the Title Suit No. 267 of 2012.

3. Learned counsel for the petitioner submits that the petitioner is the plaintiff before the learned trial court and has filed Title Suit No. 267 of 2012 seeking following relief(s):-

“(i) It be held that the Plaintiff No.1 and 2 are the Title holders of the suit land.

(ii) It be further held that the order of the learned D.C.L.R. dated 04.02.2012 passed in land dispute case no. 14/2010-11 is illegal, null and without jurisdiction.

(iii) The other relief or reliefs to which the plaintiffs found entitled to be passed in their favour.”

4. Thereafter, the plaintiff/petitioner filed a petition on



30.01.2014 under Order 6 Rule 17 read with Section 151 of the Code for bringing certain amendments in the plaint which was mainly with regard to the dispossession of the plaintiffs from the Schedule-I of the suit property. In the said amendment petition certain allegations were made against the local Circle Officer and police officials. By way of the said amendment petition, the plaintiff sought recovery of possession of Schedule-I property, decree of confirmation of possession of Schedule 2 property and also seeking permanent injunction. The said amendment petition was allowed by the learned trial court. Subsequent to the amendment, the plaintiff preferred an application dated 20.02.2016 before the learned Sub Judge-IV in Title Suit No. 267 of 2012 Under Order 1 Rule 10 read with Section 151 of the Code seeking impleadment of State of Bihar through the Collector, Darbhanga, DCLR, Sadar, Darbhanga and Circle Officer Hanuman Nagar, Darbhanga as respondent nos. 7, 8 and 9 in the said title suit. Learned counsel further submits that Circle Officer-cum-Public Information Officer, Hanuman Nagar, Darbhanga furnished certain information contained in Memo No. 489 on 23.07.2015 under Right to Information Act to the petitioner wherein the facts were disclosed that office of the Circle Officer, Hanuman Nagar was instrumental in securing possession of the part of the suit land to the extent of 7 decimal in favour of the defendants/respondents



while holding the title of the defendants/respondents over said portion of the suit property and also the factum of dispossession of the plaintiff/petitioner from that portion of the land. However, the learned trial court, after due consideration, rejected the petition dated 20.02.2016 filed by the plaintiff/petitioner holding therein that plaintiff has not sought any relief against any Government officials like D.C.L.R., Sadar, Darbhanga and for this reason they are not necessary and proper party. Learned counsel further submits that the 1st paragraph of his petition filed under Order 1 Rule 10 read with Section 151 of the Code, the relief has been sought against the order of the DCLR, Sadar, Darbhanga passed in Land Dispute Case No. 14 of 2010-11. Learned counsel further submits that a copy of letter sent by the Circle Officer to the D.C.L.R., Sadar Darbhanga have been filed on record which shows the title of land of 7 decimal has been declared for Sudhir Kumar Sharma on the land of Surendra Thakur bearing Thana No. 173, Khata No. 175, Khesara No. 1920 and that he was in possession while holding that rest of the land was in possession of Surendra Thakur, petitioner herein. Thus, the learned counsel submits that there is complicity of the D.C.L.R. and the Circle Officer with regard to dispossession of the petitioner from the part of the suit land. Though no relief has been sought against the Government officials like D.C.L.R., Circle Officer, their presence



as parties on record would help in proper disposal and adjudication of real controversy between the parties. Hence, the impugned order is bad in the eyes of law and needs to be set aside.

5. Learned counsel appearing on behalf of the respondents submits that the impugned order has been passed on consideration of the merits of the case and needs no interference. Learned counsel further submits that even after amendment in Title Suit No. 267 of 2012, no relief has been sought against the Government officials like D.C.L.R. or the Circle Officer. The learned trial court has considered this fact and went on to pass the order holding that the State of Bihar, D.C.L.R., Sadar Darbhanga or Anchal Adhikari are not necessary parties to the suit. Learned counsel further submits that whatever relief has been sought by the plaintiff/petitioner, it is against the private respondents and not against the State. Even in the amendment petition, the plaintiff/petitioner has stated that the defendants have fenced the Schedule-II land though in collusion with Government officials. Similarly, the household articles have been taken by the defendants/respondents at the instance of Circle Officer, Hanuman Nagar, Darbhanga. Thus, the learned counsel submits that there is no infirmity in the impugned order and the same needs to be sustained.

6. Having regard to the facts and circumstances and the



rival submissions on behalf of the parties, one thing is amply clear that no relief has been sought either against the State of Bihar or D.C.L.R. Sadar, Darbhanga or Circle Officer, Hanumanagar, Darbhanga. From the material available on record, I do not find in what manner the impleadment of the Government officials as party in the suit would help in adjudication of real controversy between the parties as it is *inter se* dispute between the private parties. Neither any relief has been sought against the State of Bihar nor against D.C.L.R and Circle Officer nor they are required to do certain things in any specific manner. No doubt certain allegations have been levelled but the same could be assertion of facts and needs to be proved by cogent evidence. It is not the case of the petitioner that the Government officials are required to address any issue with regard to the relief sought by the plaintiff/petitioner.

7. Order 1 Rule 10(2) of the Code reads as under:-

“(2) Court may strike out or add parties.- The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.”

8. In the light of discussion made hereinbefore, I do not



think the persons sought to be impleaded by the petitioner are either necessary or even proper party in the suit of the plaintiff. Hence, I do not think the learned trial court committed any error of the jurisdiction or of record and, hence, the impugned order dated 06.04.2016 passed by the learned Sub Judge-IV, Darbhanga in Title Suit No. 267 of 2012 is affirmed.

9. Accordingly, the instant civil miscellaneous petition stands dismissed.

10. Since the title suit is of the year 2012, the learned trial court is directed to expeditiously dispose of the suit preferably within a period of nine months from the date of receipt/production of a copy of this order.

(Arun Kumar Jha, J)

balmukund/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2024
Transmission Date	NA

