

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.962 of 2024

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Ashok Kumar alias Ashok Mahto S/o Late Gopal Ji Mahto, R/o Ward no. 16,
Gandhi Chowk, Madhubani, Bihar - 847211.

... .. Petitioner/s

Versus

1. Shri Shri 108 Mahanthi Lal Ram Janki Mandir through Rajeev Ranjan S/o Lallan Kumar aka Lallan Prasad Mahantilal Chowk, Ward no. 9, P.O., P.S. and District - Madhubani Bihar - 847211.
2. Md. Kalim S/o Md. Habib Ward no. 9, P.O., P.S. and District - Madhubani Bihar - 847211.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Dr. Maurya Vijay Chandra, Advocate Ms. Preety Ranjan, Advocate
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 09-12-2024 Heard learned counsel for the petitioner on the point of admission and I intend to dispose of the present petition at the stage of admission itself.

2. The petitioner is aggrieved by the order dated 13.06.2024 passed by the learned Munsif-IIInd, Madhubani in Eviction Suit No. 03 of 2019 whereby and whereunder the learned trial court allowed the substitution petition filed by respondent no.1 Rajeev Ranjan.

3. Learned counsel for the petitioner submits that neither the original plaintiff nor the substituted plaintiff were recognized as Sewait of Shri Shri 108 Mahanthi Lal Ram Janki Mandir. There is dispute between two branches of a family and



the religious trust board appointed a person from another branch as Sewait of the said temple way back in the year 1976. So this substitution is not correct for the reason that the person who filed the eviction suit has no right to institute the suit and for this reason his son has no right to be substituted in his place as new Sewait. Learned counsel further submits that the petitioner is being made to fight a case against that person who is not his landlord because he is not the Sewait of the temple and he did not induct the petitioner as a tenant by letting out the shop. Learned counsel further submits that he has raised the plea about the original plaintiff not being his landlord. Therefore, the impugned order substituting the son of the original plaintiff is not sustainable and needs to be set aside.

4. From the claim of the petitioner, it is apparent that the petitioner is challenging the substitution of the son of the plaintiff who filed the suit on behalf of Shri Shri 108 Mahanthi Lal Ram Janki Mandir. Perusal of the application filed for substitution shows the person seeking substitution claims himself to be the son of the original plaintiff and also claims himself to be the Sewait after death of his father. Whatever be the claim of the defendant/petitioner, there is nothing on record to show that there is any other person who made any claim for



being substituted in place of the deceased plaintiff. So the learned trial court was not required to go into any inquiry under Order 22 Rule 5 of the Code of Civil Procedure. The contention of the learned counsel for the petitioner that some objection was taken in written statement is not tenable as the same relates to the rights of the plaintiff to institute the suit against the defendant/petitioner and is not against the claim of a person to be substituted in place of the deceased plaintiff. Since it is a matter of trial whether the substituted plaintiff or his father was Sewait or not, it is up to the learned trial court to decide this issue. If the defendant has taken an objection with regard to the maintainability of the suit, the defendant/petitioner is at liberty to approach the court by moving appropriate application to challenge the continuation of the suit against the petitioner and the learned trial court would consider the facts and pass appropriate orders.

5. Hence, I do not find any infirmity in the impugned order dated 13.06.2024 passed by learned Munsif-IIInd, Madhubani in Eviction Suit No. 03 of 2019, the same is affirmed.

6. As a result, the present petition stands dismissed.

7. However, the petitioner is at liberty to raise the



issue about the maintainability of the suit and the right of the substituted plaintiff to continue the suit against the defendant/petitioner before the learned trial court in accordance with law.

(Arun Kumar Jha, J)

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