

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.55 of 2017

Shila Devi W/o Nanhe Maldal, R/o Village- Bhawanipur, P.S.- Bhawanipur
(Bihpur), District- Bhagalpur.

... .. Petitioner

Versus

1. The State of Bihar through the District Magistrate, Bhagalpur.
2. Balmiki Mandal S/o Late Jagdeo Mandal,
3. Subhash Mandal, S/o Late Jagdeo Mandal,
4. Rakesh Mandal, S/o Late Jagdeo Mandal,
5. Ramchandra Mandal, S/o Late Jagdeo Mandal, All R/o Village- Bhawanipur,
P.S.- Bihpur, District- Bhagalpur.
6. Ramchandra Mandal S/o Late Jagdeo Mandal All R/o Village- Bhawanipur,
P.S.- Bihpur, District- Bhagalpur.
7. Mukul Devi W/o late Bilaram Mandal R/o Village- Bhawanipur, P.S.-
Bihpur, District- Bhagalpur.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Dhanendra Chaubey, Advocate Mr. Binod Murari Mishra, Advocate
For the Respondent/s	:	Mr. Ashok Kumar Verma, Advocate Mr. Achintya Aanand, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 23-09-2024

The hard copy of the counter affidavit has been filed
on behalf of respondents, which is taken on record.

02. Heard the learned counsels for the respective
parties.

03. The present petition has been filed by the petitioner
under Article 227 of the Constitution of India against the order
dated 18.08.2016 passed by the learned Munsif, Naugachia in
Title Suit No. 93 of 1996, whereby and whereunder the learned
trial court rejected the application of the petitioner for her



impleadment as party defendant.

04. Learned counsel for the petitioner submits that the petitioner is a *settlee* of State of Bihar. The State of Bihar settled 19 decimal land in favour of the petitioner. Title Suit No. 93 of 1996 has been filed by respondent nos. 2 to 5 against the State of Bihar as the entry in survey record of the suit land has been made in favour of State of Bihar and the nature of suit land has been mentioned as '*Anabad Bihar Sarkar*'. Part of the said land had earlier been settled in favour of one Mukul Devi, who has been made party. When the petitioner was settled a piece of suit land, the petitioner moved before the learned trial court with prayer for her impleadment as party defendant but the same was rejected by the learned trial court on 18.08.2016, though the case of the petitioner is similar to Mukul Devi. Learned counsel further submits that since the portion of suit land has been settled in favour of the petitioner, she has now got right and interest in the outcome of the title suit and she has become a necessary party after settlement of land in her favour. So, the learned trial court should have allowed the prayer for her impleadment but without appreciating the facts and circumstances, the prayer of the petitioner was rejected by the learned trial court.

05. Learned counsel appearing on behalf of respondent nos. 2 to 5 vehemently submits that there is no infirmity in the



impugned order and the same is required to be sustained. Learned counsel further submits that during pendency of the suit, the State Government has settled the land in favour of the petitioner and learned trial court has taken note of this fact. The learned trial court has stated that if the State Government continues to settle the land in such manner, the suit would never be disposed of. Learned counsel further submits that such transfer is hit by *lis pendense* and whatever is decided in the suit the same would be applicable to State of Bihar, the settlor as well as to the case of the petitioner.

06. The State of Bihar has already been party and it seems pursuing the case before the learned trial court though despite notice, it transpires that none appears on behalf of State.

07. Having regard to the facts and circumstances and rival submission of the parties, it is apparent that the petitioner acquired part of suit land through settlement by the State of Bihar and in this manner, she has become interested in the suit property. It shows that the transfer has taken place during pendency of the title suit and the State of Bihar has settled the land in favour of the petitioner. The apprehension of the learned trial court appears to be genuine on the account that if the State continues to settle the land in such manner, it would be a never ending process. However, as a *settlee*, even if the petitioner is not



a necessary party but she is a proper party and this fact ought to have been taken note of by the learned trial court. Without further going into the details of cases of the respective parties, I am of the opinion that the impugned order dated 18.08.2016 passed by the learned Munsif, Naugachia in Title Suit No. 93 of 1996 could not be sustained and, therefore, the same is set aside and the application dated 28.06.2016 filed by the petitioner is allowed.

08. However, it is made clear the impleadment would not confer any extra right over the petitioner except what is available to the settlor of the petitioner, i.e., State of Bihar.

09. Since it is a suit of the year 1996, the learned trial court is directed to take up the matter showing urgency and try to dispose of it at the earliest, preferably within three months from the date of receipt/production of copy of this order. The parties are directed to co-operate with the proceeding before the learned trial court.

10. Accordingly, the present petition stands allowed with the aforesaid observation.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.09.2024
Transmission Date	NA

