

Item No.27
14.03.2024
Court. No. 19
GB

C.O. 1784 of 2022

Buddheswar @ (Lepar) Bhatu Majhi (Murmu)
Vs.
Smt. Pramila Majhi & Ors.

*Mr. Soumik Ganguli,
Ms. Chandana Chakraborty*

...for the Petitioner.

*Mr. D.N. Chatterjee,
Mr. M.S. Mandal*

...for the Opposite Parties.

1. The revisional application has been filed by the petitioner challenging an order dated April 4, 2022, passed by the learned Civil Judge (Junior Division), Raghunathpur in Title Suit No.61 of 2020.
2. The petitioner filed the application for addition of party on the ground that he had sold 1/3rd of his share to Gouri Chakraborty and Sujit Chakraborty and he was in possession of the rest of the property. The suit was filed with the averment that the sale was a sham transaction as Bhatu Majhi died 47 years ago.
3. The learned Civil Judge (Junior Division), Raghunathpur rejected the said application on the ground that it was the discretion of the court whether to allow or not allow such addition. The plaint case was that Bhatu Majhi died 47 years ago, without leaving behind any issue, thus the petitioner should not be added.
4. The petitioner draws the attention of the court to the plaints of three suits, namely, Title Suit No.61 of 2020, Title Suit No.45 of 2013 and Title Suit No.68 of 2013. Title

Suit No.61 of 2020 and Title Suit No.68 of 2013 were filed by the same set of plaintiffs against Sujit Chakraborty, Gouri Chakraborty and another.

5. The Court finds from the schedule of the complaints in both the cases that the parts of R.S. Plot Nos.76, 77 and 141 of Mouza – Kantaranguni, Police Station – Kashipur, were the subject matters of the suit.
6. It is submitted that Buddheswar Majhi (Murmu) son of late Kanai Majhi (Murmu) is the petitioner himself. His father's name is Kanai @ Ganesh Mahji. In Title Suit No.45 of 2013 the opposite party nos.1 to 4 were defendants and Buddheswar Majhi was a proforma defendant. Bhatu @ Buddheswar Majhi, son of late Kanai @ Ganesh Majhi prayed for transposition as a defendant in lieu of proforma defendant and the prayer was allowed.
7. Thus, from the records it appears that the petitioner Bhatu @ Buddheswar Majhi, Son of Kanai @ Ganesh Majhi is a party to the suits arising out of the self-same property. In order to refute that Bhatu Majhi was not dead, the addition is essential as per Mr. Ganguly.
8. Mr. Chatterjee, learned advocate appearing on behalf of the plaintiffs submits that the petitioner was an imposter. He is not the Bhatu referred to in Title Suit No.61 of 2020. That Buddheswar Murmu, son of Kanai Murmu and Bhatu @ Buddheswar Majhi, son of Ganesh Majhi, were not the same person. It is the specific case of the plaintiffs that Bhatu Majhi died 47 years ago.

9. However, as it appears that in two other suits involving the self-same property and parties, one Bhatu @ Buddheswar Majhi (Murmu), son of Kanai @ Ganesh Majhi has been impleaded and the disputes in all the suits relate to portions of R.S. Plot Nos.76, 77 and 141, the addition should be allowed.
10. Under such circumstances, this Court directs that keeping the point of identity of the petitioner open and for a decision at the trial, Buddheswar @ (Lepar) Bhatu Majhi (Murmu) son of Kanai Majhi be added as defendant no.7 in Title Suit No.61 of 2020. The learned trial court is directed to issue necessary directions. The plaintiffs shall be at liberty to lead evidence with regard to the identity of the petitioner, who they allege is an imposter and pray for necessary directions in this regard to prove their contentions in the plaint. Whether Sujit and Gouri acquired a proper title or whether it was a sham transaction as their vendor was dead, shall be decided in the suit. The addition of the petitioner will not amount to negation of the pleading that Bhatu expired 47 years ago. The order impugned is set aside.
11. Accordingly, the revisional application is disposed of.
12. However, there will be no order as to costs.
13. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)