

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.893 of 2023

1. Smt. Reena Singh, Wife of Sri Appu Singh(insane Person) Resident of Mohalla - West Anandpuri, Boaring Canal Road, House No. 10, P.S. Sri Krishnapuri, P.O.- G.P.O., District - Patna.
2. Shahil Pratap Singh, Son of Sri Appu Singh Resident of Mohalla - West Anandpuri, Boaring Canal Road, House No. 10, P.S. Sri Krishnapuri, P.O.- G.P.O., District - Patna.

... .. Petitioner/s

Versus

1. Sohan Singh Son of Shiv Paratap Singh Resident of Mohalla - Anandpuri House No. 10, P.S.-Sri Krishnapuri, P.O.- G.P.O., District Patna (Plaintiff in the Court below).
2. Smt. Sakuntala Devi Widow of Late Shiv Pratap Singh, Resident of Mohalla - North Anandpuri, House No. 169, P.S. - Sri Krishnapuri, P.O.- G.P.O., District - Patna.
3. Smt. Ragni Kumari, Daughter of Late Shiv Pratap Singh, Resident of Mohalla - North-Anandpuri, Near Devi Mandir, House No. 169/G, P.S. Sri Krishnapuri, P.O.-G.P.O., District - Patna.
4. Appu Singh Son of Late Shiv Pratap Singh, Resident of Mohalla - West Anandpuri Boaring Canal Road, House No. 10, P.S. - Sri Krishnapuri, P.O.- G.P.O., District Patna (Defendants in the Court below)

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mahendra Prasad Bhartee, Advocate Mr. Nawal Kishore Singh, Advocate
For Respondent No.2	:	Mr. Rewti Kant Raman, Advocate
For the Respondent no.3	:	Mr. Mirtyunjay Kumar Mishra, Advocate
For Respondent No.4	:	Mr. Bhanu Pratap Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

5 27-03-2025 The petitioners are aggrieved by the order dated 14.07.2023 passed by the learned Sub Judge XIII-cum-ACJM-13, Patna in Title Suit No. 277 of 2015 whereby and whereunder the application dated 05.01.2018 filed under Order 1 Rule 10 of the Code of Civil Procedure has been rejected.

2. Learned counsel for the petitioners submits that the



petitioners are wife and son of defendant no.3/respondent no.4 Appu Singh, respectively and the petition for impleadment was filed on the ground that defendant no.3/respondent no.4 was insane. But the learned trial court merely on the ground that the said case was a case for partition of ancestral property and wife was not having any right in joint ancestral property during the lifetime of her husband, rejected the intervenor petition. The said order is not sustainable. Learned counsel further submits that now the petitioner no.2 has become major though earlier he was minor and the petition was filed by petitioner no.1 on behalf of her minor son. But this fact was also not taken into consideration by the learned trial court that son was a necessary party. On the aforesaid ground, the impugned order needs interference.

3. Learned counsel appearing on behalf of respondent no.4 submits that respondent no.4 is not suffering from any mental ailment and he is completely sane. Learned counsel further submits that it is the settled law that wife is not having any right in the joint family property and so far as son is concerned, as he has become major, he can move his independent application for impleadment which the learned trial court could consider. Thus, learned counsel submits that in fact



the matter has become infructuous.

4. Having regard to the rival submission and facts and circumstances, no doubt the learned trial court erred on the point when it did not record any finding about the status of the son when the application was filed both on behalf of mother and her minor son. So far as rejection of the petition of the petitioner no.1 is concerned, I do not find any infirmity in the impugned order.

5. As the son/petitioner no.2 has become major, the petitioner no.2 is at liberty to make appropriate application before the learned trial court for his impleadment which shall be considered in accordance with law. Therefore, I do not think any useful purpose would be served in interfering with the impugned order.

6. Accordingly, the present petition stands disposed of with liberty as aforesaid.

(Arun Kumar Jha, J)

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