

(1991) 12 PAT CK 0029
In the Patna High Court
Case No : C.R. No. 1821 of 1991

Chandra Prakash Gupta

APPELLANT

Vs

Ganga Prasad and Others

RESPONDENT

Date of Decision : 19-12-1991

Acts Referred:

Citation : (1991) 12 PAT CK 0029

Final Decision : Dismissed

Judgement

G.C. Bharuka, J.—The plaintiff is the petitioner in this revision application. The petitioner is aggrieved by the order dated 5-9-1991 passed by 1st Sub-Judge, Sitamarhi, in Title Suit No. 21/87 by which the Court below has acceded to the prayer of the Interveners (Opp. party 3rd set) for adding them as party defendants in the Suit.

2. The plaintiff has instituted the Suit in question for a decree for specific performance of contract. The relevant facts, in short, as set out by the plaintiff, are that the land in dispute belongs to one Dulhin Indira Devi wife of Ganga Prasad (Opp. party No. 1). Her estate devolved on her husband Ganga Prasad and son Kedar Prasad after her death. Subsequently there has been a partition between the father and the son. In the said partition the suit land fell to the share of Ganga Prasad (Opp. party No. 1), who, because of need of money, entered into an agreement for sale with the petitioner in respect of the suit land by accepting part consideration money. But the subsequently declined to complete legal formalities necessary for effecting the sale of the suit land. It has been further stated that on 20-4-1991 the Opp. parties No. 3 and 4 filed a petition for adding them as interveners-defendants in the Suit on the ground that they had purchased the suit land by two sale deeds dated 19-4-1990 from Shri Ganga Prasad (Opp. party No. 1) whereby acquiring interest in the suit property which has entitled them for being added as parties to the suit.

3. In spite of objection of the plaintiff petitioner, the Court below by the impugned order has allowed the prayer of the interveners.

4. Learned Counsel for the petitioner has submitted that in view of the principle of *lis pendens* as contained in Section 52 of the Transfer of Property Act the transferees *pendente lite* will be bound by the result of the suit and therefore, they are neither necessary nor proper parties to be added in the Suit. His further submission is that if the interveners Opp. parties are allowed to contest the suit, it will create unnecessary complications.

5. In my considered opinion, both the legal objection as well as the apprehension of the plaintiff-petitioner is wholly misplaced. In the case of *Bakhtawar Singh and Others Vs. Nirmal Singh and Others*, , it has been held that:

Pendente lite transferee's application can not be rejected on the basis that principle of "*lis pendens*" would apply to such case. On the contrary. Order XXII, Rule 10 enables such transferees to become party though it did not compel him to be one. The application must be granted unless there is exceptional ground for its rejection.

6. In the present case, no exceptional ground has been made out for the rejection of the prayer of the transferees *pendente lite* to add them as parties to the suit. In this very case, referred to above, it has been also held that, if the interveners are allowed to be added as parties, no complication can arise on their impeding because such parties cannot raise any defense which is not open to their transferor and they would be bound by all orders passed till then.

7. In the case of *Khan Bahadur C.B. Taraporwala and Another Vs. Kazim Ali Pasha and Others*, , it has been held that application for addition of transferees *pendente lite* is maintainable both under Order I, Rule 10(a) and Order XXII, Rule 10, CPC It is for the simple reason that if the suit is decreed in terms of the relief's claimed by the plaintiff, then the interest. of the transferee *pendente lite* is bound to be adversely affected.

8. If this view of the matter even without referring to any specific statutory provisions and going just by the principle of natural justice, the parties whose interest or right is likely to be affected cannot be denied minimal opportunity of hearing them. By this time it does not need any authority for enunciation of proposition that the principle of natural justice are applicable to quasi-judicial as well as judicial proceedings.

9. For all these reasons, as aforesaid, I do not find any merit in this application. It is accordingly, dismissed. However, there shall be no order as to costs.