
(2011) 07 PAT CK 0005
In the Patna High Court
Case No : CWJC No. 9573 of 2011

Chchangur Bind and Another	Vs	APPELLANT
Ram Awtar Bind and Others		RESPONDENT

Date of Decision : 07-07-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10

Citation : (2012) 3 PLJR 693

Hon'ble Judges : Mungeshwar Sahoo, J

Bench : Single Bench

Advocate : Bajrangi Lal, for the Appellant; Shyam Narayan Pandey, for the Respondent

Final Decision : Allowed

Judgement

Mungeshwar Sahoo, J.—Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the intervener respondent Nos. 5 to 12. This writ application has been filed by the petitioners who were plaintiff Nos. 1 and 3 in the Court below against the order dated 29.11.2008 passed by Sub-Judge-I, Bhabhua, Kaimur in Title Suit No. 130 of 2007 whereby the learned Court below allowed the application filed by the interveners-respondents under Order 1 Rule 10 C.P.C. and directed that the said respondent be added as co-plaintiff.

2. The learned counsel, Mr. Bajrangi Lal, appearing on behalf of the petitioners submitted that the petitioners are disputing that the present interveners have got no interest in the suit property because they do not belong to the family of the plaintiff whereas according to the interveners, they belonged to the joint family and they have also got interest in the suit property. In such circumstances, the learned Court below could not have allowed the interveners to be impleaded as plaintiff in the Court below.

3. The learned counsel, Mr. Shyam Narayan Pandey appearing of behalf of the

interveners submitted that there are overwhelming documentary evidences showing that the interveners have also got interest in the property and, therefore, the learned Court below has rightly impleaded them as plaintiff. However, he conceded to the fact that the present interveners-respondents and the plaintiff Nos. 1 & 3 have got conflict interest. But, the learned counsel submitted that the plaintiff No. 2 is supporting the claim of the interveners. It appears that the suit was filed for declaration of title and possession. Admittedly, the interveners have got conflict interest with the petitioners.

4. In such view of the matter, the learned Court below could not have added the interveners-respondents as co-plaintiff with the petitioners. Since the learned Court below found that they are necessary party in the suit, therefore, if their presence is necessary, they may be added as defendant in the suit. In view of the above facts and circumstances of the case, the impugned order is not sustainable in the eye of law. Accordingly, this writ application is allowed and the impugned order is modified to the extent that the intervenor-respondent Nos. 5 to 12 are added as defendants in the suit. The interveners-respondents may file their written statement within the time stipulated by the law.