
(2015) 10 JH CK 0051
In the Jharkhand High Court
Case No : WP(C) 5931 of 2011

Hariram Manjhi

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 09-10-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, 80

Citation : (2015) 4 JLJR 413

Hon'ble Judges : S. Chandrashekhar, J.

Bench : Single Bench

Advocate : Ashutosh Mishra, for the Appellant; Chaitali C. Sinha, for the Respondent

Final Decision : Dismissed

Judgement

S. Chandrashekhar, J.—Aggrieved by order dated 26.7.2011 in Title Suit No. 11 of 2010 whereby, the respondent Nos. 4 to 44 have been impleaded in the suit, the present writ petition has been filed. The petitioner is plaintiff No. 2 in Title Suit No. 11 of 2010. The plaintiff No. 2 is the son of plaintiff No. 1. The suit was filed for declaration of title of the plaintiffs over Schedule-A property and for injunction restraining the defendant from disturbing peaceful possession of the plaintiffs. In the pending suit, application dated 18.1.2011 under Order I, Rule 10 CPC was filed which has been allowed vide, order dated 26.7.2011.

2. The learned counsel for the petitioner submits that the intervenors are not proper or necessary party in Title Suit No. 11 of 2010. If at all, they have any claim in the suit property they were required to file a separate suit seeking declaration of their right, title and interest in the property. Moreover, since the name of Krishi Bibhag, Bihar Sarkar is recorded in the Revenue Record, the intervenors were first required to issue notice under Section 80 CPC. On these grounds, impugned order dated 26.7.2011 has been assailed.

3. Per contra, Mr. Prabhash Kumar, the learned counsel for the respondent Nos. 4

to 44 submits that respondent Nos. 4 to 44 have valuable interest in the suit property. They are purchasers from the original landlord through registered sale-deed and at this stage it was sufficient for permitting the respondent Nos. 4 to 44 to contest the suit on merits.

4. In Title Suit No. 11 of 2010, the plaintiffs have asserted that a portion of C.S. Plot No. 1 comprised in C.S. Khata No. 78 was initially Jhatis (bushes). The plaintiff No. 2 (petitioner herein) took settlement of the said land on 17.9.1932 from the Dhalbhum Raj Estate on payment of ground rent. After settlement, the plaintiff No. 2 made the land cultivable and paddy and other seasonal crops were grown. It was asserted that for about 78 years, the State Government did not seek eviction of the plaintiffs or their predecessors though, the ground rent for the said land was not accepted. The plaintiffs in the above facts instituted suit for declaration of their title over the suit property. In application dated 18.1.2011 under Order I, Rule 10 CPC the respondent Nos. 4 to 44 claimed that the portion of suit property was possessed by one Satish Chandra Bandopadhyay by virtue of Patta executed on 15.3.1943 registered on 27.11.1943. The said Satish Chandra Bandopadhyay was granted permission of raiyati rights on receipt of Salami of Rs. 110/-. In the Revisional Survey Settlement of the year, 1964 the name of the said Satish Chandra Bandopadhyay was recorded in R.S. Khata No. 273, Mouza-Baliguma. After his death his widow namely, Bibbharani Banerjee and his son Debesh Chandra Banerjee sold the suit property by executing registered sale-deeds in favour of more than 68 persons. The respondent Nos. 4 to 44 also claimed themselves purchasers from the legal heirs and successors of the said Satish Chandra Bandopadhyay. Along with their applications under Order I, Rule 10 CPC, the respondent Nos. 4 to 44 produced copies of registered sale-deeds. In *Vidur Impex and Traders Pvt. Ltd. and Others Vs. Tosh Apartments Pvt. Ltd. and Others*, the Hon'ble Supreme Court has observed as under:--

"41.2. A necessary party is the person who ought to be joined as party to the suit and in whose absence an effective decree cannot be passed by the court.

41.3. A proper party is a person whose presence would enable the court to completely, effectively and properly adjudicate upon all matters and issues, though he may not be a person, in favour of or against whom a decree is to be made."

A person who has valuable interest involved in the suit property or in the outcome of the suit is a necessary party. Similarly, a person in whose absence the suit cannot effectively and conclusively be decided, is a proper party. In view of the claim raised by the respondent Nos. 4 to 44 flowing from various registered sale-deeds executed in their favour by the legal heirs and successors of Satish Chandra Bandhopadhyay, respondent Nos. 4 to 44 have rightly been impleaded in Title Suit No. 11 of 2010. I find no infirmity in impugned order dated 26.7.2011 and accordingly, the writ petition is dismissed. I.A. No. 5183 of 2015 also stands disposed of.