

(1925) 06 PAT CK 0042

In the Patna High Court

Satyadeva Sahay and Others

APPELLANT

Vs

Mt. Jhamel Kuer and Others

RESPONDENT

Date of Decision : 04-06-1925

Acts Referred:

Bengal Tenancy Act, 1885 — Section 148A

Citation : AIR 1926 Patna 519

Hon'ble Judges : Bucknill, J

Bench : Division Bench

Judgement

Bucknill, J.—This is an application in civil revisional jurisdiction made under simple circumstances.

2. Some of the applicants are proprietors of a certain property and brought a rent suit in the Court of the 2nd Munsif, Gaya, against the first of the opposite party for arrears of rent. They impleaded all the members of the opposite party (with the exception of the second opposite party) as being co-sharer landlords, as defendants, purporting to act u/s 148A of the Bengal Tenancy Act. So far no difficulty had arisen; but in January last it would seem that one Mosaheb Singh applied to the Munsif to be made a co-defendant; he alleged that the first opposite party had sold a portion of the property of which he was a holder to one Chamo Singh and that Chamo Singh had sold in his turn to this Mosaheb Singh. He, therefore, asked to be made a co-defendant alleging that he had some sort of interest in the suit. To this, however, the applicants not unnaturally object. They state that they had no knowledge of the transfer alleged to have been made and that he, Mosaheb Singh, had no locus standi. However, on the 24th of January last, the Munsif ordered that Mosaheb Singh should be made a co-defendant. It is against this order that this application has now come before this Court.

3. It is difficult to understand how it is possible for the Munsif to have acceded to the application of this Mosaheb Singh to be joined as a co-defendant. It is quite clear from the case of Gananath Satpathy and Others Vs. Harihar Pandhi and

Others, decided by their Lordships the Chief Justice and M. Justice Mullick of this Court that, so far as the plaintiff is concerned here in this suit, ho was in no way bound to implead this Mosaheb Singh as a co-defendant. If ho was not bound to implead him as a co-defendant, it is quite clear that he is not within the meaning of the law a necessary party to these proceedings; and, if he was not a necessary party to the proceedings, it seems to me to have been quite irregular for the Munsif to have acceded to his request that he should be made a co-defendant.

4. It is true that he, Mosaheb Singh, states in his counter-affidavit that he has got some sort of interest in the holding which was held by the first defendant in the suit. He states that the original holding which was in the name of the first defendant was sold in 1922 to one Chamo Singh so far as a portion of the holding is concerned and that this Chamo Singh came into possession of it. He also alleges that some of the co-sharer landlords did in fact recognize the transfer to Chamo Singh as being a tenant and that some rent receipts were given by some of the co-sharer landlords to this Chamo Singh. He further suggests that this portion of the holding of the first defendant, which was purchased by Chamo Singh and which subsequently passed into his (Mosaheb Singh's) possession, came to be recognized as an entire holding. Even supposing all his statements were correct, this would not affect his locus standi in this suit. The case to which I have referred shows quite clearly that none of the facts were material for the necessity for the impleading of this Mosaheb Singh as a defendant by the plaintiff. The converse appears to be equally the case; if he is not a necessary party he has no locus standi and need not be joined.

5. In these circumstances I think the order of the Munsif must be set aside an that Mosaheb Singh cannot properly be joined as a party to these proceedings. The applicants will have their costs.