

(2019) 09 PAT CK 0153

In the Patna High Court

Case No : Civil Miscellaneous Jurisdiction No. 1708 Of 2017

Tirath Kumar

APPELLANT

Vs

Lakshmi Mahato And Ors

RESPONDENT

Date of Decision : 20-09-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Order 1 Rule 10(2)
Constitution Of India, 1950 — Article 227

Citation : (2019) 4 PLJR 1023

Hon'ble Judges : Ashwani Kumar Singh, J

Bench : Single Bench

Advocate : Rajan

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner.
2. This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 30.06.2017 passed in Partition Suit No.67/ 2016 by the Sub Judge-IIInd, Bagha, West Champaran, by which he has allowed the Intervention Application dated 24.01.2017 and 03.04.2017 filed by the respondents 1st Set and directed them to be added as Interveners/respondents in the suit.
3. Learned counsel appearing for the petitioner submitted that the order impugned passed by the trial Court is bad in law as it failed to appreciate that the interveners as respondents are adjoining raiyats and not the coparceners of the plaintiff. He submitted that the impleadment of the interveners as defendants would complicate the entire issues involved in the suit. According to him, the trial Court also failed to appreciate that the impleadment would create a vested right in the interveners as they would be treated as coparceners.
4. Having heard the petitioners and perused the materials on record, I find that the trial Court has allowed the intervention application mainly on the ground that

the Mukhiya, Sarpanch, Ward Member, Member of Jal Parishad and several villagers had certified that the interveners are the descendants of Ram Charan Mahto. From the pleading of the petitioner, it would appear that Ram Charan Mahto is forefather of the plaintiff-petitioner.

5. In case, the trial Court reached to the conclusion that the plaintiff and defendants as also the interveners had a common ancestor and allowed the interveners to be impleaded as defendants, no error can be found with the order impugned as Order-1, Rule-10(2) of the Code of Civil Procedure gives discretionary jurisdiction to the Court to add name of any person, who ought to have been joined, whether as plaintiff or defendant or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all questions involved in the suit.

6. The apprehension of the petitioner that by mere impleadment of the interveners as defendants, the interveners would be deemed to be the offspring of common forefather is without any basis. Mere impleadment of a person as a party in the suit does not amount to declaration of any fact, which is yet to be determined by the Court at appropriate stage in the suit by framing an issue.

7. Since the order impugned is neither perverse nor without jurisdiction, I am not inclined to interfere with the same in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

8. Accordingly, the application is dismissed.