

In the Court of the Sub Judge-II, Benipur

Present:- Pranav Kumar Bharti

Title Suit No.-27 of 2018, Registration No.-30/18

Smt. Siyabati Devi & Others vs. Most. Bhagwan Dai Devi & Others

24-11-2021

Case is called out and record is produced before me. Plaintiff is in attendance while defendants are absent. Do proper pairavi. Perused the case record. On call learned counsel of the plaintiff appeared in the Court and submitted that Plaintiff No.-1 & 2 have filed a petition U/O-I, Rule-10(2) & section-151 of the Civil Procedure Code herein after referred as the C.P.C. on 01.04.2021. Copy is supplied to the defendant. In this petition, it is submitted that plaintiff no.-2 purchased the schedule-1 land in the plant in the name of his wife, plaintiff no.-1 and similarly plaintiff no.-4 purchased the schedule-II land of the plaint in the name of his wife, plaintiff no.-3. Further submission of the petitioners is that schedule- I & II land of the plaint are related with the same Khata & Khesara upon which the defendant 1st party started to raise illegal claim on the basis of illegal registered sale deed dated-17.03.2018. For this all the plaintiffs i.e. plaintiff no.-1,2,3 & 4 filed the instant suit together against the defendant 1st & 2nd party. It has been further submitted that now a days plaintiff no.-3 & 4 have gone in the camp of the defendant 1st party against the interest of plaintiff no.-1 & 2 and in their collusion they erected their residential houses on the schedule-II land of the plaint which the part of the suit land during the pendency of the instant suit. Further submission of the petitioners is that after erection of residential houses on the schedule-II land of the plaint, plaintiff no.-3 & 4 are not taking any interest regarding the suit and they left the suit abandoned and as a result future of the suit is at a stake. Thus in the aforesaid circumstances for avoiding the future complications and saving the interest of the plaintiff no.- 1 & 2 of the suit, the Court be pleased to transpose the name of plaintiff no.-3 & 4 from the plaintiff's column into the defendants' column as defendant 4th party (defendant no.-8 & 9).

No rejoinder petition is filed on behalf of the either party.

Continue.....

Title Suit No.-27 of 2018,Registration No.-30/18
Smt. Siyabati Devi & Others vs. Most. Bhagwan Dai Devi & Others

24-11-2021

Continued.....

Heard the learned counsel Sri Manoj Kumar Jha, but nobody turned up on behalf of the defendants. Perused the case record. On perusal of the plaint and entire case record, it appears to the court that this instant suit has been brought by the plaintiffs against seven defendants on 05.05.2018. After admission defendants were summoned, but none of the defendants appeared in the suit till date. Meanwhile, when this record was fixed for receiving for S/R of summons, a petition U/O-I, Rule-10(2) & section-151 of the C.P.C. was filed on behalf of the plaintiff no.-1 & 2 and since 12.04.2021, this suit has been pending for hearing on the petition dated-01.04.2021. But this is pressed today by the learned counsel of the plaintiff.

Since the plaintiff is the master of the suit and he has the right to decide against whom he claims or sought for his reliefs. His right and choice always prevail within the meaning of Order-I, Rule-10(2) of the C.P.C. If the petitioner thinks that there has been a conflict of interest among the co-plaintiffs for the suit property/land which is the subject matter of this instant suit, then he has the right to decide against whom he claims reliefs. Further, averment made by the petitioners in petition dated-01.04.2021 seems to be true and for the effectual and complete adjudication of this case/suit, transposition of plaintiff no.-3 & 4 from array of plaintiffs into defendants as defendant no.-8 & 9(defendant 4th party) is essential.

Considering the fact and circumstances as discussed above, the court is inclined with contention of learned counsel of the petitioner/plaintiff and the court is of opinion that transposition of plaintiff no.-3 & 4 from array of plaintiffs into the array of defendants as defendant no.-8 & 9(defendant 4th party) is essential and their names be struck off from array of plaintiff and be added in the array of defendants in the plaint in the and accordingly plaint is required to be amended in accordance with law.

Continue.....

Title Suit No.-27 of 2018,Registration No.-30/18

Smt. Siyabati Devi & Others vs. Most. Bhagwan Dai Devi & Others

24-11-2021

Continued..... Thus, petition dated-01.04.2021 filed on behalf of the petitioner is disposed of as accordingly. Learned counsel of the plaintiff is directed to amend the plant accordingly within ten days.

Fixing on 8-12-21..... for amendment in plaint and for hearing on S/R of summons.

Dictated

Sub Judge-II
24.11.21