

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.578 of 2023

1. Shanti Singh Wife of Sri Jang Bahadur Singh (D/o Late Shiv Nr. Singh), resident of Village-Dudhani, P.O.-Kamarpur, Present P.O.-Pawani, P.S.-Buxar Muffasil, Distt-Buxar (Bihar), at present resident of Sai Kripa, Ved Nagar, Rukunpura, B.V. College, P.S.-Rupaspur, Bailey Road, Danapur, District-Patna-14.
2. Surendra Singh, son of Late Ramyash Singh, resident of Village-Dudhani, P.O.-Kamarpur, Present P.O.-Pawani, P.S.-Buxar Muffasil, Distt-Buxar (Bihar), at present resident of Sai Kripa, Ved Nagar, Rukunpura, B.V. College, P.S.-Rupaspur, Bailey Road, Danapur, District-Patna-14.
3. Ram Bahadur Singh, son of Late Ramyash Singh, resident of Village-Dudhani, P.O.-Kamarpur, Present P.O.-Pawani, P.S.-Buxar Muffasil, Distt-Buxar (Bihar), at present resident of Sai Kripa, Ved Nagar, Rukunpura, B.V. College, P.S.-Rupaspur, Bailey Road, Danapur, District-Patna-14.
4. Jang Bahadur Singh, son of Late Ramyash Singh, resident of Village-Dudhani, P.O.-Kamarpur, Present P.O.-Pawani, P.S.-Buxar Muffasil, Distt-Buxar (Bihar), at present resident of Sai Kripa, Ved Nagar, Rukunpura, B.V. College, P.S.-Rupaspur, Bailey Road, Danapur, District-Patna-14.
5. Vijay Shankar, son of Sri Jang Bahadur Singh, resident of Village-Dudhani, P.O.-Kamarpur, Present P.O.-Pawani, P.S.-Buxar Muffasil, Distt-Buxar (Bihar), at present resident of Sai Kripa, Ved Nagar, Rukunpura, B.V. College, P.S.-Rupaspur, Bailey Road, Danapur, District-Patna-14.
6. Sangeeta Kiran, D/o Sri Jang Bahadur Singh, resident of Village-Dudhani, P.O.-Kamarpur, Present P.O.-Pawani, P.S.-Buxar Muffasil, Distt-Buxar (Bihar), at present resident of Sai Kripa, Ved Nagar, Rukunpura, B.V. College, P.S.-Rupaspur, Bailey Road, Danapur, District-Patna-14.

... .. Petitioner/s

Versus

1. Mr. Jugeshwar Nath Srivastava son of Late Onkar Nath Srivastava, resident of Mohalla-Naya Tola, Sanguna More, Near Raghunath Petrol Pump, P.S.-Danapur, Bailey Road, District-Patna (Bihar).
2. Divya Kumari, Wife of Sri Brajesh Kumar, resident of Mohallah-Bhim Shani Tola, P.O. and P.S.-Malsalami, Distt.-Patna. At present resident of 3 SFS, B-1/5, Bhoot Nath Road, Bahadurpur Housing Colony, P.S.-Agamkuan, District-Patna.
3. Ms. Dipti Kumari, Daughter of Late Devendra Prasad, resident of Mohallah-Bhim Shani Tola, P.O. and P.S.-Malsalami, Distt.-Patna. At present resident of 3 SFS, B-1/5, Bhoot Nath Road, Bahadurpur Housing Colony, P.S.-Agamkuan, District-Patna.
4. Sushant Kumar, son of Late Devendra Prasad, resident of Mohallah-Bhim Shani Tola, P.O. and P.S.-Malsalami, Distt.-Patna. At present resident of 3 SFS, B-1/5, Bhoot Nath Road, Bahadurpur Housing Colony, P.S.-Agamkuan, District-Patna.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Shashi Nath Jha, Advocate
Mr. Sunny Kumar, Advocate
For the Respondent/s : Mr. Amit Shrivastava, Sr. Advocate
Mr. Girish Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

CAV JUDGMENT

Date : 05-01-2024

Heard learned counsel for the petitioners and learned counsel for the respondent no.1 on the point of admission and I intend to dispose of this petition at this stage itself.

2. The intervenors/petitioners have filed the instant petition seeking the following reliefs :

“(i) Quashing/setting aside the part of the impugned order dated 17.01.2023 (Annex-4) passed by the learned Additional District Judge VI, Danapur, Patna, in Title Appeal No.-79 of 2019 (Divya Kumari & others Vs. Jugeshwar Nath Srivastava), whereby and whereunder the intervention applications of the present petitioners no. 1 to 4 dt. 06.12.2022 (Annex-2), as well as the intervention application of the present petitioners no. 5 to 6 dt.06.01.2023 (Annex-3), both filed U/O 1 Rule 10 (2) C.P.C. for their own impleadment in the pending Title Appeal as Co-appellants have been rejected.

(ii) Allowing the intervenors-petitioners’ application dt. 06.12.2022 (Annex-2) and also dt. 06.01.2023 (Annex-3), both filed U/O 1 Rule 10 (2) C.P.C. and implead them in the pending Title Appeal as Co-appellants, as these intervenors have



admittedly purchased the suit land during pendency of the Title suit from the Plaintiffs.

(iii) Holding and declaring that the learned court below while passing the impugned order dt. 17.01.2023 (Annx-4) has failed to exercise his jurisdiction vested in him, and also failed to protect the right, title and interest of the intervenors-petitioners over the suit land.

(iv) Granting any other relief/reliefs for which the petitioners may be found entitled to”.

3. The learned counsel for the intervenors/petitioners submitted that the intervenors/petitioners have purchased the lands measuring 08 Katha 03 Dhur under Khata No. 144, Survey Plot No.363 (Part), Thana No. 23, Mauza-Saguna, Danapur, District- Patna from the plaintiffs/respondent 2nd party vide various registered sale deeds during the pendency of the concerned title suit.

4. The learned counsel for the petitioners further submitted that in the year 2011, a Title Suit No. 112 of 2011 (Smt. Sudha Devi and others vs. Sri Jugeshwar Nath Srivastava) was filed by the plaintiffs-respondents 2nd party in the court of learned Sub-Judge, Danapur, Patna for declaration of title and for a decree of removal of encroachment against the sole defendant and also for removal of construction of house/shops made by the defendant over the suit land. The sole defendant



appeared in the suit and filed his written statement requesting for dismissal of the suit. Thereafter, the said title suit of the plaintiffs was dismissed on contest without granting any relief to the plaintiffs vide judgment and decree dated 03.08.2019 passed by the learned trial court. Being aggrieved with the said judgment and decree dated 03.08.2019, the plaintiffs filed Title Appeal No.79 of 2019 before the learned District Judge, Patna which is pending before the learned Additional District Judge-VI, Danapur for disposal.

5. The learned counsel for the petitioners further submitted that during the pendency of the said title appeal, the petitioner nos. 1 to 4 and the petitioner nos. 5 & 6 filed their respective intervention applications under Order 1 Rule 10 (2) of the Code of Civil Procedure (hereinafter referred as 'CPC') on 06.12.2022 and 06.01.2023, respectively for their impleadment in the title appeal. The defendant/respondent filed his rejoinder to both the applications dated 06.12.2023 and 06.01.2023 and prayed for dismissal of the same. Thereafter, the learned appellate court below, without considering the issues, dismissed the aforesaid applications on frivolous and unsustainable ground vide the impugned order dated 17.01.2023.



6. The learned counsel for the petitioners further submitted that undisputedly the present petitioners are the transferee- pendente lite and the representative-in-interest over the suit land as the same have been purchased by them through various registered sale deeds executed by the plaintiffs. The learned counsel further submitted that from the sale deeds, which have been attached with the petition, it is apparent that the petitioners have valid right, title, interest and possession over the total suit area measuring 8 Katha 03 dhur purchased by them. Subsequently, on the basis of aforesaid sale deeds, all the petitioners-puchasers got their separate *Jamabandi* opened and they have been paying rent to the State of Bihar.

7. The learned counsel for the petitioners further submitted that the learned court below while passing the impugned order has failed to protect the right, title, interest and possession of the plaintiffs over the suit land. The learned counsel further submitted that the petitioners would suffer irreparable loss, if they are not impleaded in the pending title appeal as co-appellants. Moreover, for the complete adjudication of the case between the parties, the present petitioners are the necessary party in the title appeal. Therefore, the present petition may be allowed.



8. On the other hand, learned senior counsel appearing on behalf of the respondent no.1 contended that the petition filed by the petitioners is not maintainable on account of suppression of material facts. Before advertng to merits of the case, the learned senior counsel took this Court through the factual matrix of the case. The learned senior counsel submitted that by a registered deed of sale dated 25.07.2011, the original plaintiff no.1 Sudha Devi sold part of the suit property having area 10 Dhurs to one Shanti Singh (petitioner no.1), the wife of the petitioner no.4 Jang Bahadur Singh. The original plaintiff no.1 Sudha Devi further sold a piece of land measuring 3 Katha 11 Dhur and 10 Dhurki by another registered deed of sale dated 14.09.2011 to Shanti Devi (petitioner no.1), Surendra Singh (petitioner no.2), the brother of Jang Bahadur Singh, Ram Bahadur Singh (petitioner no.3), also a brother of Jang Bahadur Singh (petitioner no.4). In this manner, the original plaintiff no.1 Sudha Devi cumulatively sold 4 Katha 1 Dhur and 10 Dhurki of the suit property. The learned senior counsel further submitted that in another transaction, the original plaintiff no.2 Sushant Kumar sold part of suit property vide registered deed of sale dated 10.07.2012 to Shiv Narayan Singh, the father-in-law of Jang Bahadur Singh. Further, by a registered deed of sale dated



10.07.2012, the original plaintiff no.2 Sushant Kumar sold part of suit property having area 11 Dhur and 10 Dhurki to the petitioner nos. 2, 3 and 4, Surendra Singh, Ram Bahadur Singh and Jang Bahadur Singh, respectively. The original plaintiff no.2 Sushant Kumar further sold 1 Katha 10 Dhur of land of the suit property to Sangita Kiran (the petitioner no.6), the daughter of Jang Bahadur Singh and Vijay Shankar (petitioner no.5) and Ravi Shankar, both sons of Jang Bahadur Singh. In this manner, Sushant Kumar cummulatively sold 3 Katha 11 Dhur and 10 Dhurki. In this way, the plaintiff nos. 1 and 2 sold 7 Katha and 13 Dhurs to the petitioners. The learned senior counsel further pointed out that the original plaintiffs in their plaint in Title Suit No. 112 of 2011 have specifically claimed that there was encroachment on 1.5 Katha of the suit property and they have also mentioned in their plaint that they had cumulatively purchased 8 Katha and 3 Dhurs of the land. If the lands sold by the original plaintiff nos. 1 and 2 is deducted from the cumulatively purchased land of the original plaintiffs, the remaining land is only 10 Dhur. So, the case of the plaintiffs is obviously false as they claimed encroachment on 1.5 Katha of the suit property. It is also clear that the original plaintiffs, namely Sudha Kumari and Sushant Kumar, sold their entire



property between 25.07.2011 to 10.07.2012. In fact, the original plaintiff no.1 sold half share in the suit property within a few months of filing of the Title Suit No. 112 of 2011, which was verified and signed on 16.05.2011. But the plaintiffs took no step at any point of time after 10.07.2012 till 03.08.2019, when Title Suit No. 112 of 2011 was disposed of, to bring on record the fact of execution of aforesaid five registered deeds of sale and took no efforts to substitute/transpose the said purchasers in the Title Suit No. 112 of 2011. Further, even the Title Appeal No. 79 of 2019 was filed on 06.11.2019 by the plaintiffs without substituting/transposing the said purchasers in the title suit or appeal. It was left to the respondents to bring on record the fact about execution of the above-mentioned five registered deeds of sale. The originals plaintiffs and substituted plaintiff no.1 Divya Kumari and Dipti Kumari, both daughters of original plaintiff no.1 suppressed the fact of registration of sale deeds and played fraud upon learned court below and even in the instant Title Appeal No.79/2019. Further, the petitioner no.1 who was given General Power of Attorney by substituted plaintiffs 1 (a) and 1 (b) and the original plaintiff no.2 on 28.12.2012 did not file any petition for impleadment of the purchasers, who are petitioners in the instant application, before the learned court below after



sale of entire suit property from 25.07.2011 to 10.07.2012. That apart, leave of the court was not taken by the plaintiffs as per requirement under Section 52 of the Transfer of Property Act before assigning of the land in favour of the purchasers. The learned senior counsel stressed on the principle that a person coming to a court of law must come with clean hands and suppression of material facts by such a party disentitles him for grant of any relief. Further, as the plaintiffs have already transferred all their land holding, execution of General Power of Attorney dated 28.12.2012 is *void ab initio* and nullity in the eyes of law since the last sale took place on 10.07.2012. The learned senior counsel further submitted that the General Power of Attorney, Jang Bahadur Singh, was directly involved and was also a direct beneficiary of the suit properties much prior to 28.12.2012 which irrevocably demonstrates the collusion and fraud perpetuated by the said Jang Bahadur Singh and the three plaintiffs in the said Title Suit No. 112 of 2011, who are also the appellants in the Title Appeal No. 79 of 2019. The learned senior counsel next submitted that the deposition of Jang Bahadur Singh was recorded in Title Suit No. 112 of 2011 on 25.07.2014 and in his deposition, the petitioner no.4 Jang Bahadur Singh has deliberately and willfully with oblique and



malafide intention suppressed the material fact that he had purchased part of the suit property by registered deeds of sale dated 14.09.2011 and 10.07.2012. The said Jang Bahadur Singh also concealed the fact about purchase of remaining property by his immediate family members namely, wife, sons, daughters, brothers and father-in-law. This petitioner as witness filed his affidavit on 25.07.2014 and was cross-examined on 25.07.2014, 07.08.2014, 23.08.2014, 06.09.2014, 20.10.2014, 13.11.2014, 18.11.2014, 27.06.2016 and 11.07.2016. But this witness deliberately and willfully suppressed the material facts. Since fraud vitiates everything, suppression of material facts in a court of law is also a fraud and for this reason, the petitioners have no case before this Court. In this regard, the learned counsel relied on the decision of the Hon'ble Supreme Court in the case of ***Yashoda Vs. Sukhwinder Singh and Ors. (Civil Appeal No. 8247 of 2009)***. At the same time, vendors of the said Jang Bahadur Singh made themselves liable for perjury as they have deliberately, willfully with oblique malafide intention suppressed the material facts with regard to the said five registered deeds of sale. It is, therefore, expedient in the interest of justice and to uphold the majesty of law that the said Jang Bahadur Singh and Sushant Kumar are proceeded under Section



340 of the Code of Criminal Procedure. Further, the original plaintiff no.2 Sushant Kumar has suppressed this material fact in his affidavit and also in his cross-examination and thus, floated the statutory requirement under Order 18 Rule 4 (1) (2) of the Code of Civil Procedure.

9. The learned senior counsel further submitted that the petitioner nos. 1 to 4 filed a petition on 06.12.2022 with a prayer to implead them as co-appellants in Title Appeal No. 79 of 2019 admitting the execution of sale deeds in their favour by the original plaintiffs. Further, averment has been made in the petition dated 06.12.2022 that the petitioner nos. 1 to 4 hold absolute right, title and interest over 4 Katha 1.5 dhur land out of 8 Katha and 3 Dhur. Thereafter, the petitioner nos. 5 and 6 filed a petition under Order 1 Rule 10 (2) and Section 151 CPC on 06.01.2023 with prayer to implead them along with the petitioners of petition dated 06.12.2022 as co-appellants. These petitioners also admitted the transfer of land of suit property through different registered deeds of sale. The learned senior counsel next submitted that six purchasers who are joint purchasers cannot be impleaded as co-appellant after a lapse of 11 years from the date of execution of said registered deeds of sale more particularly when they purchased the said property in



complete violation of Section 52 of the Transfer of Property Act. Further, the petitioner Jang Bahadur Singh who hold General Power of Attorney had been doing regular *Pairvi* in the case before the learned trial court in Title Suit No.112 of 2011. The said Jang Bahadur Singh is the father of the petitioner Vijay Shankar and Sangita Kiran and husband of Shanti Singh and brother of Surendra Singh and Ram Bahadur Singh. So, the petitioners were having all knowledge and in view of their conduct and complete lack of bonafide, the learned appellate court has rightly passed the impugned order rejecting the impleadment of the petitioners in Title Appeal No. 79 of 2019. Further, the petitioners are admittedly the transferees *pendente lite* and are not necessary parties in Title Appeal No. 79 of 2019 and the appellants are competent in law to take care of rights of the purchasers. The learned senior counsel further submitted that the impugned order has been passed after proper application of judicial mind and the prayer for impleadment of the petitioners was rejected on cogent, valid and lawful ground. The learned senior counsel further relied on the decision of the Hon'ble Supreme Court in the case of ***Chennai Metropolitan Water Supply & Sewerage Board and others v. T.T. Murali Babu***, reported in, ***AIR 2014 SC 1141*** to buttress the point that the



doctrine of delay and laches should not be lightly brushed aside. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation. In the instant case, the petitioners slept over their rights and does not deserve any indulgence. The learned senior counsel further submitted that this Court took note of the fact about intervenors-petitioners having knowledge of the litigation and moving for impleadment after much delay in another case and rejected the prayer for impleadment vide order dated 20.07.2023 passed in Second Appeal No. 73 of 2021. Therefore, as the petitioners were all along having the knowledge of pendency of Title Suit No. 112 of 2011, the petition filed by them on 06.12.2022 and 06.01.2023 are hopelessly time barred and for this reason, rightly rejected by the learned first appellate court vide impugned order dated 17.01.2023. There is no specific denial about the petitioners' knowledge about Title Suit No. 112 of 2011, rather there is implied admission. In their petitions filed for impleadment, the petitioners have not stated as to when they got the knowledge. As such, the petitioners admittedly were aware about the pendency of Title Suit No.112 of 2021. Hence, the petitions of the petitioners were time barred under Article 137 of the Limitation Act and have been rightly rejected by the



learned first appellate court.

10. In reply to the submission of learned counsel for the respondent no.1, the learned counsel for the petitioners submitted that there could be no limitation in such matter as the amendment could be allowed at any stage. When there is devolution of interest, parties can be added or deleted. The learned counsel referred to Order 22 Rule 10 of the Code of Civil Procedure regarding assignment of interest to support his claim. The learned counsel relied on the decisions of Hon'ble Apex Court in the cases of ***Devendra Kumar Sarewgee and Ors. Vs. Purbanchal Estates (P) Ltd. and Ors.***, reported in ***(2006) 9 SCC 199*** & ***Mumbai International Airport Pvt. Ltd. vs. Regency Convention Centre & Hotels Pvt. Ltd. & Ors.***, reported in ***(2010) 7 SCC 417***. The learned counsel further submitted that the plaintiffs/appellants have been living outside the state and it is very difficult for them to pursue the present appellant proceeding. So the present petitioners are necessary parties in the appeal after purchasing the suit land during the pendency of the title suit. The learned counsel further submitted that the respondents have not denied this contention in their counter affidavit. Further, the respondent no.1 has not stated anything as to how he is going to be prejudiced by impleadment



of the intervenors as parties in the appeal and how their rights would be prejudicially affected. The learned counsel further submitted that whatever submission has been made against the petitioner no.4 holding a General Power of Attorney and not disclosing the fact about his interest in the case, the same would not be applicable on other petitioners. It cannot be said that apart from the petitioner no. 4, all other petitioners were having knowledge about the pending litigation and they moved impleadment application after delay. Furthermore, there was no injunction in the title suit and the plaintiffs could have sold the suit property without any hindrance. Thus, learned counsel submitted that the petition of the petitioners is quite in order and the learned first appellate court erred when it rejected the petitioner of intervenors-petitioners for impleadment and hence, the order dated 17.01.2023 be set aside and the instant petition be allowed.

11. Perused the record.

12. Having regard to the facts and circumstances of the case and submissions made on behalf of the parties, the issue which mainly concerns this Court is as to whether the petitioners are proper and necessary parties before the learned appellate court or not.



13. Order 1 Rule 10 (2) of the Code of Civil Procedure reads as under :

“10 (2). Court may strike out or add parties—The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the 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 the questions involved in the suit, be added”.

14. A bare reading of the aforesaid provision shows the court may at any stage of the proceeding can or add or delete party to a suit if it feels presence of such party might be necessary in order to enable the court effectually and completely adjudicate upon and settle all the questions involved in the suit. Now, appeal is continuation of trial and the petitioners came before the appellate court seeking their impleadment. Further, Article 137 of the Limitation Act provides that any application for which no specific period of limitation has been provided is to be filed within three years and reliance could be made on the decision of the Hon’ble Apex Court in the case of **Kerala State**



Electricity Board Trivandrum Vs. T.P. Kunhaliumma, reported in ***AIR 1977 SC 282***, which makes it clear that Article 137 of the Limitation Act is applicable to all provisions of the Civil Procedure Code and it was even applicable to the petition filed under other enactments.

15. Before considering whether the petitioners are proper and necessary parties before the learned appellate court, certain relevant facts are to be considered first. There has been no denial that the petitioner no. 4, Jang Bahadur Singh, had been holding General Power of Attorney for original plaintiffs and had been prosecuting the title suit on behalf of the plaintiffs. During the pendency of the title suit, the original plaintiffs transferred almost all of the suit land in favour of the petitioners. So conduct of the petitioner no.4, in holding the General Power of Attorney for the plaintiffs even after devolution of interest of plaintiffs had taken place, was itself wrong. Further, wrong has been committed by the petitioner no. 4 in not disclosing his interest after purchasing the property *pendente lite*. The conduct of the petitioner no. 4 is totally blameworthy. It is also the fact that other petitioners are wife, sons, daughter and brothers of the petitioner no. 4 and for this reason, the learned first appellate court recorded the finding that the petitioners are not bonafide



purchasers without notice. This Court has no quarrel with the finding arrived at by the learned first appellate court regarding the conduct of the petitioners. Since the petitioner no.4 was holding General Power of Attorney on behalf of his vendor and subsequent to the purchase of property by the petitioner no.4 and other petitioners, the petitioner no.4 continued to hold the power of attorney. The act of the petitioner no.4 would thus bind the subsequent purchasers who are his wife, sons, daughter and brothers. The petitioners could not feign ignorance regarding previous proceedings.

But, at the same time, it is an admitted fact that the petitioners have purchased almost of the suit property except 10 Dhur of land. After selling all of the suit property, the original plaintiffs could neither have any incentive nor motivation to pursue the litigation, as it has been pleaded before this Court that the present petitioners/purchasers are the necessary party in the appeal when the intervenors/petitioners have purchased the suit land and the original plaintiffs have been residing outside the State and could not pursue the proceeding at the appellate stage. In such situation, if the petitioners are not allowed to participate in the proceeding before the learned first appellate court, it would not be in the interest of justice. It goes without



saying that if the original plaintiffs do not pursue the appeal earnestly, the rights of the petitioners might be affected. There is no right under Order 1 Rule 10 (2) CPC to a non-party to be impleaded as a party to a *lis* since it gives a discretion to a court to strike or add parties at any stage on a proceeding. However, the court would always consider the situation, if the right and the interest of the petitioners are likely to be affected in case they are not allowed to participate in the appeal as co-appellants when the original plaintiffs/appellants might have lost interest in their case after selling all the properties.

16. As already observed earlier that the petitioners are not innocent bystanders and through the petitioner no.4, they were having notice of the pending litigation, still they chose not to get themselves impleaded as a party before the learned trial court, thus effectively closing their options which would have been available to them at that time. The petitioners are purchasers *pendente lite* and they cannot claim any extra privilege except what was available to their original vendors. Further, they would be bound by all the acts of their vendor done as original plaintiffs. Being purchasers/transferees of the disputed property, the doctrine of *lis pendens* would come to fore and a decision of a court in the suit will bind up those who



claim interest in the property and also those who derive title *pendente lite*.

17. However, as there is likelihood of rights of the petitioners getting affected and even though the petitioners could be said to have notice, considering the fact that the petitioners are having substantial interest in the property in dispute, they are required to be impleaded as co-appellants. Reliance, in this regard, could be placed on the decisions in the matters of ***Kasturi Vs. Iyyamperumal and Ors.***, reported in, ***(2005) 6 SCC 733 & Mumbai International Airport Pvt. Ltd. vs. Regency Convention Centre & Hotels Pvt. Ltd. & Ors.***, reported in, ***(2010) 7 SCC 417***. But this impleadment must be subject to heavy cost considering the conduct of the petitioners and further subject to the condition that the petitioners would not hinder the disposal of the appeal before the learned first appellate court in any manner.

18. Having regard to the discussion made so far, the intervention petition dated 06.12.2022 (Annexure-2) of the petitioner nos. 1 to 4 as well as intervention petition dated 06.12.2022 (Annexure-3) of the petitioner nos. 5 to 6 are allowed subject to payment of cost of Rs.25,000/- to the respondent no.1 on the first date of hearing before the learned



first appellate court. The petitioners are directed to be impleaded as co-appellants in Title Appeal No.79 of 2019 before the learned first appellate court. Consequently, the impugned order dated 17.01.2023 (Annexure-4) passed by the learned Additional District Judge-VI, Danapur, Patna in Title Appeal No.79 of 2019 is partly set aside.

19. The learned appellate court would make all endeavours to dispose of the appeal within three months from the date of receipt/production of a copy of this judgment.

20. It is made clear that being purchasers *pendente lite*, the petitioners are bound by the acts of the original plaintiffs before the learned trial court and could not question the same in the appellate court. The impleadment of the petitioners as co-appellants is only for the purpose of pursuing the appeal before the learned first appellate court.

21. With the aforementioned observations and directions, the instant petition stands allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	A.F.R
CAV DATE	11.12.2023
Uploading Date	05.01.2024
Transmission Date	N.A.

