

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11041 of 2015

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Sachitanand Choubey

.... Petitioner/s

Versus

Barmeshwar Choubey & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nikesh Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 12-05-2016

Heard the learned senior counsel, Mr. K.N.Choubey for the petitioner.

By the impugned order dated 23.02.2015, the learned A.D.J. IV, Buxar has allowed the impleadment application filed by the plaintiff-appellant for adding the purchaser as party-respondent in the title appeal.

Admittedly, the defendant-petitioner has sold the property during the pendency of the appeal to the purchaser to whom the plaintiff wants to add as party-respondent in the suit.

The Hon'ble Supreme Court in **A. Nawab John and others v. V. N. Subramaniam, (2012) 7 Supreme Court Cases 738** at paragraph 21 relying on the decision of the Supreme Court in the case of **Amit Kumar Shaw & Another v. Farida Khatoon & Another, AIR 2005 Supreme Court 2209 = (2005) 11 Supreme Court Cases 403** has held that "the transferee pendente

lite can be added as a proper party if his interest in the subject matter of the suit is substantial and not just peripheral. A transferee pendente lite to the extent he has acquired interest from the defendant is vitally interested in the litigation, whether the transfer is of the entire interest of the defendant, the latter having no more interest in the property may not properly defend the suit. He may collude with the plaintiff. Hence, though the plaintiff is under no obligation to make a lis pendens transferee a party; under O. 22, R. 10 an alienee pendente lite may be joined as party.”

In view of the above settled proposition of law that when the Court has the jurisdiction to add a transferee pendente lite under Order I Rule 10(2) C.P.C., the Court has rightly exercised the jurisdiction and has allowed the application filed by the plaintiff-appellant. I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction.

Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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