

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.202 of 2017**

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Upendra Narain Singh @ Upendra Singh

.... Appellant/s

Versus

Shri Bibhay Kumar Singh & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shailendra Kumar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO**

ORAL ORDER

2 04-02-2017 Heard learned counsel Mr. Bhupendra Narayan Singh
for the petitioner.

Pursued the impugned order dated 07.09.2016 passed
by Munsif, Bakhari (Begusarai) in Title Suit No.41 of 2014
(wrongly typed as 25 of 1978 in first paragraph) whereby the
learned court below has allowed the intervention application filed
by the intervener respondent no.4.

The learned counsel for the petitioner submitted that
for deciding the issue involved in the suit the presence of the
purchaser is not required and, therefore, he is not a necessary
party. The learned counsel relied upon a decision of this Court in
**2014 (4) P.L.J.R. 300 (Manoj Kumar Vs. Patna Municipal
Corporation).**

In the present case, it is admitted fact that the
intervener respondent no.4 has purchased a portion of the suit
property from one of the defendants. So far the decision relied



upon by the learned counsel for the petitioner is concerned, it appears that in that case the suit was for injunction only against Patna Municipal Corporation. The interveners in that case filed intervention application denying the tile of the plaintiff and claimed 8 annas and 4 annas their respective share in the suit property. In that view of the matter their intervention application was rejected by the High Court. So far the present case is concerned, as stated above he is admittedly a purchaser of the part of the suit property from the contesting defendant. The Hon'ble Supreme Court in **A.I.R. 2005 Supreme Court 2209 (Amit Kumar Shaw and another Vs. Farida Khaoon and another)** has held that though the plaintiff is under no obligation to make lis pendens transferee a party, under Order 22 Rule 10 an alienee pendente lite may be joined as party, the Court has discretion in the matter which must be judicially exercised and alienee should ordinarily be joined as party to enable him to protect his interest.

Thus, in view of the settled decision of the Supreme Court I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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