

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.1192 of 2018**

---

Punam Devi, Wife of late Kamleshwari Bhagat, resident of Village- Gola Tola Kadwa, P.O. Khairpur Bazar, P.S. Dholbajj, District- Bhagalpur.

... .. Petitioner/s

Versus

1. Arbind Kumar, Son of Late Gajadhar Prasad Jaiswal, resident of Village- Khairpur Bazar, P.O.- Khaipur Kadwa, P.S.- Dholbajj, District- Bhagalpur.
2. Pravin Kumar, son of Late Gajadhar Prasad Jaiswal, resident of Village- Khairpur Bazar, P.O.- Khaipur Kadwa, P.S.- Dholbajj, District- Bhagalpur.
3. Bipin Kumar son of late Gajadhar Jaiswal resident of Village- Khairpur Bazar, P.O.- Khaipur Kadwa, P.S.- Dholbajj, District- Bhagalpur.
4. Shiv Shankar Jaiswal son of Late Laxmi Prasad Jaiswal, resident of Village- Khairpur Bazar, P.O.- Khaipur Kadwa, P.S.- Dholbajj, District- Bhagalpur.
- 5.1. Vibhash Jaiswal, Son of Prithvichand Jaiswal, resident of Village- Khairpur Bazar, P.S.- Dolbajj, District- Bhagalpur.
- 5.2. Baby Devi, daughter of Prithvichand Jaiswal, resident of Village- Khairpur Bazar, P.S.- Dolbajj, District- Bhagalpur.
- 6.1. Madhu Devi, wife of Lalchand Jaiswal, resident of Village- Khairpur Bazar, P.O.- Khairpur Bazar, P.S.- Dolbajj, District- Bhagalpur.
- 6.2. Rabish Kumar, son of Lalchand Jaiswal, resident of Village- Khairpur Bazar, P.O.- Khairpur Bazar, P.S.- Dolbajj, District- Bhagalpur.
- 6.3. Kinshu Kumari, daughter of Lalchand Jaiswal, resident of Village- Khairpur Bazar, P.O.- Khairpur Bazar, P.S.- Dholbajj, District- Bhagalpur.
7. Gyanchand Jaiswal son of late Laxmi Prasad Jaiswal resident of Village- Khairpur Bazar, P.O.- Khaipur Kadwa, P.S.- Dholbajj, District- Bhagalpur.
- 8.1. Subhash Bhagat son of Siyaram Bhagat, resident of Village- Khairpur Bazar, P.O.- Khairpur Bazar, P.S.- Dholbajj, District- Bhagalpur.
- 8.2. Varun Bhagat, son of Siyaram Bhagat, resident of Village- Khairpur Bazar, P.O.- Khairpur Bazar, P.S.- Dholbajj, District- Bhagalpur.
- 8.3. Shashi Bhagat, son of Siyaram Bhagat, resident of Village- Khairpur Bazar, P.O.- Khairpur Bazar, P.S.- Dholbajj, District- Bhagalpur.
- 8.4. Asha Devi, wife of Chhotelal Chaudhari, daughter of Siyaram Bhagat, resident of Village and P.O.- Jhaa Bariya Diyara, P.S.- Mahesh Khad, District- Khagaria.
9. Ram Bilash Bhagat son of late Mishri Bhagat resident of Village- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.
10. Most. Shila Devi wife of Late Nagendra Bhagat resident of Village- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.
11. Most. Munita Devi wife of Late Nagendra Bhagat resident of Village-



- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.
12. Gulab Chand Bhagat son of Late Nagendra Bhagat, resident of Village- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.
  13. Chandan Kumar son of Late Nagendra Bhagat, resident of Village- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.
  14. Kundan Kumar son of late Nagendra Bhagat resident of Village- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.
  15. Neha Kumari daughter of Late Nagendra Bhagat, resident of Village- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.
  16. Madhu Kumari daughter of late Nagendra Bhagat resident of Village- Khairpur Bazar, P.O. Khairpur Kadwa, P.S. Dolbajja, District- Bhagalpur.
  17. Soni Devi daughter of late Nagendra Bhagat and wife of Bhola Jaisawal resident of Village and P.S.- Alamnagar, District- Madhepura.
  18. Binod Bhagat son of Late Jagdish Bhagat, resident of Village- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.
  19. Amod Bhagat son of Late Jagdish Bhagat, resident of Village- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.
  20. Dinesh Bhagat son of late Jagdish Bhagat resident of Village- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.
  21. Janardan Bhagat son of Late Ram Prasad Bhagat, resident of Village- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.
  22. Umesh Bhagat son of late Ram Prasad Bhagat resident of Village- Khairpur Bazar, P.O.- Khairpur Kadwa, P.S.- Dolbajja, District- Bhagalpur.

... .. Respondent/s

---

---

**Appearance :**

|                      |   |                                                              |
|----------------------|---|--------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Mrigendra Kumar, Advocate<br>Mrs. Kusum Kumari, Advocate |
| For the Respondent/s | : | None                                                         |

---

---

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**ORAL JUDGMENT**

**Date : 23-09-2024**

Heard learned counsel for the petitioner. Despite repeated opportunities, no one appeared for the respondents.

2. The instant petition has been filed by the petitioner under Article 227 of the constitution of India for setting aside the order dated 06.06.2018 passed by learned Munsif,



Naugachia in Title Suit No. 17 of 2008, whereby and whereunder the petition dated 22.05.2015 filed by the petitioner under Order 1 Rule 10(2) read with Section 151 of the Code of Civil Procedure (hereinafter as 'the Code') for adding the petitioner as intervenor was rejected.

3. The learned counsel for the petitioner submits that the petitioner is the purchaser of 44.6 decimal land from defendant nos. 1 and 2, Siyaram Bhagat and Ram Bilash Bhagat. The vendors of the petitioner are coparceners of the plaintiffs and they have sold their share of land. The suit has proceeded *ex-parte* against the vendors of the petitioner. The petitioner was not having any knowledge about pendency of the suit. Learned counsel further submits that the learned trial court rejected the intervenor petition on the ground that the suit is of the year 2008 and the sale deed was executed without the leave of the court and if such applications are allowed, it will hamper the disposal of the suit. Learned trial court held that if the vendors of the intervenor are parties to the suit, the interest of the petitioner would be guided by the outcome of the suit against the vendors. Learned counsel further submits that this reasoning is flawed for the simple reason that the vendors have been proceeded *ex-parte* and the petitioner was not having any



knowledge about pendency of the suit and after purchase of the land she has got the interest in the outcome of the suit with regard to the suit properties which includes the purchased land of the petitioner. Learned counsel further relied on the decision of the Hon'ble Supreme Court in the case of ***Yogesh Goyanka vs. Govind & Ors. (Civil Appeal No. 7305 of 2024 judgment dated 10.07.2024.)*** to buttress his contention that there exists no bar to the impleadment of transferees *pendente lite* even with notice. Learned counsel further submits that the Hon'ble Supreme Court held that permitting the impleadment of a transferee *pendente lite* is, in each case, a discretionary exercise undertaken to enable a purchaser with a legally enforceable right to protect their interests especially when the transferor fails to defend the suit or where there is a possibility of collusion. Learned counsel thus submits that the facts of the said case and ratio laid down therein are applicable to the present case.

4. I have given my thoughtful consideration to the submission of the learned counsel for the petitioner. The Hon'ble Supreme Court in the case of ***Amit Kumar Shaw & Anr. vs. Farida Khatoon & Anr.***, reported in ***AIR 2005 SC 2209 : 2005 (11) SCC 403*** held that there is no legal bar to impleadment of a transferee *pendente lite* if such person has



sufficient interest in the outcome of the suit. In the present case, the petitioner is the vendee from defendant nos. 1 and 2 and it has been submitted that the defendant nos. 1 and 2 have been proceeded *ex-parte* so the vendors of the petitioner are not available to defend the interest of the petitioner. However, neither from the petition preferred before the learned trial court nor in the civil miscellaneous petition, any submission has been made about the matter being proceeded *ex-parte* against defendant nos. 1 and 2. However, considering the submission made by the learned counsel for the petitioner that from the copy of certified copy of the plaint, it appears that *ex-parte* proceeding has taken place vide order dated 20.04.2012 against defendant nos. 1 and 2, the Court accepts the contention of the learned counsel for the petitioner. Further, considering the fact that the petitioner has got interest in the subject matter of the suit, the petitioner ought to have been allowed to be added as a party as defendant in the present case and hence, the learned trial court has committed error of jurisdiction while rejecting the petition of the petitioner for impleadment.

5. In the light of discussion made here-in-before, the impugned order dated 06.06.2018 passed by learned Munsif, Naugachia in Title Suit No. 17 of 2008 is set aside and the



petition dated 22.05.2015 filed by the petitioner is allowed.

6. In the result, the present petition stands allowed.

**(Arun Kumar Jha, J)**

balmukund/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 26.09.2024 |
| Transmission Date | NA         |

