

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.656 of 2022**

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Arun Kumar Singh, Son of Late Dineshwar Prasad Singh, resident of village-
Bara Karinga, Police Station Chapra Muffasil, District Saran at Chapra.

... .. Petitioner/s

Versus

Umesh Kumar Tiwary, Son of Late Mohni Gopal Tiwary, resident of Viveka
Nand Colony Near Dr. Subhash Tiwary, P.O. and P.S.- Bhagwan Bazar,
District- Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Dubey, Advocate Mr. Kumar Gaurav, Advocate Mr, Shanshank Kashyap, Advocate
For the Respondent/s	:	Mr.

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

5 02-07-2024

Re:- I.A. No.01 of 2024

The instant Interlocutory Application has been filed on behalf of the petitioner for adding the defendants of Partition Suit No. 427 of 2015 as party respondents in the present civil miscellaneous petition.

2. Learned counsel appearing on behalf of the petitioner submits that due to inadvertence, other defendants of Partition Suit No. 427 of 2015 could not be made party in the present petition and their details have been mentioned in paragraph no.1 of this interlocutory application. Learned counsel further submits that though their appearance is not necessary but for meeting the technicality, these defendants need to be made party respondents.



3. Having regard to the facts and circumstances and submissions made on behalf of the petitioner and the averments made in this interlocutory application, I.A. No. 1 of 2024 is allowed.

4. Office is directed to incorporate the names and details of the defendants in the record as party respondents as mentioned in paragraph no. 1 of this interlocutory application.

Re:- Civil Misc. No. 656 of 2022

5. The present civil miscellaneous petition has been filed by the petitioner under Article 227 of the Constitution of India for setting aside the order dated 05.09.2022 passed by the learned Sub- Judge 3rd, Saran at Chapra in Partition Suit No. 427 of 2015 whereby and whereunder the learned trial court dismissed the petition filed by the petitioner under Order 39 Rule 4 of the Code of Civil Procedure (hereinafter referred to as 'the Code').

6. Against an order passed under Order 39 Rule 4 of the Code, an appeal would lie under Order 43 Rule 1(r) before the court of competent jurisdiction.

7. Faced with the situation, learned counsel for the petitioner submits that he may be permitted to withdraw the present petition with liberty to approach the appropriate forum.



8. Permission is accorded.

9. Accordingly, the instant civil miscellaneous petition stands dismissed as withdrawn with liberty to the petitioner to approach the court of competent jurisdiction.

(Arun Kumar Jha, J)

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