

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.52 of 2023

1. Sudhir Kumar Singh @ Sudhir Singh, Son of Late Yugal Prasad Singh Resident of Village- Maheshwara ward no.- 2, P.S.- Nawkothi, Distt.- Begusarai.
2. Sanjay Kumar Singh @ Sanjay Singh, Son of Late Yugal Prasad Singh Resident of Village- Maheshwara ward no.- 2, P.S.- Nawkothi, Distt.- Begusarai.
3. Kanhiya Kumar, Son of Late Yugal Prasad Singh Resident of Village- Maheshwara ward no.- 2, P.S.- Nawkothi, Distt.- Begusarai.
4. Angad Singh @ Angad Prasad Singh, S/o Late Ambika Singh, Resident of Village- Maheshwara ward no.- 2, P.S.- Nawkothi, Distt.- Begusarai.

... .. Petitioner/s

Versus

1. Pramod Jha Son of Late Harinandan Jha Resident of Village- Manjhaul Tola- Pachmahala, P.S.- Cheriabariarpur, Distt.- Begusarai.
2. Binod Jha, Son of Late Harinandan Jha Resident of Village- Manjhaul Tola- Pachmahala, P.S.- Cheriabariarpur, Distt.- Begusarai.
3. Mukesh Jha, Son of Late Harinandan Jha, Resident of Village- Manjhaul Tola- Pachmahala, P.S.- Cheriabariarpur, Distt.- Begusarai.
4. Nemesh Kumar, Son of Pramod Jha Resident of Village- Manjhaul Tola- Pachmahala, P.S.- Cheriabariarpur, Distt.- Begusarai.
5. Rishikesh Kumar Jha, Son of Pramod Jha Resident of Village- Manjhaul Tola- Pachmahala, P.S.- Cheriabariarpur, Distt.- Begusarai.
6. Gautam Jha, Son of Binod Jha Resident of Village- Manjhaul Tola- Pachmahala, P.S.- Cheriabariarpur, Distt.- Begusarai.
7. Purushottam Jha, Son of Binod Jha Resident of Village- Manjhaul Tola- Pachmahala, P.S.- Cheriabariarpur, Distt.- Begusarai.
8. Sonu Jha, Son of Mukesh Jha Resident of Village- Manjhaul Tola- Pachmahala, P.S.- Cheriabariarpur, Distt.- Begusarai.
9. Smt. Mani Devi, W/o Hare Krishna Prasad Singh Resident of Village- Manjhaul, P.O.- Manjhaul, P.S.- Cheriabariarpur, Distt.- Begusarai.
10. Dhan Raj Kumar, Son of Hare Krishna Prasad Singh Resident of Village- Manjhaul, P.O.- Manjhaul, P.S.- Cheriabariarpur, Distt.- Begusarai.
11. Chanra Mauli Kumar, Son of Hare Krishna Prasad Singh Resident of Village- Manjhaul, P.O.- Manjhaul, P.S.- Cheriabariarpur, Distt.- Begusarai.
12. Jagdish Sada, S/o Ramsharan Sada (deceased) Resident of Village- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
13. Kundan Sada, S/o Jagdish Sada Resident of Village- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
14. Shankar Sada, S/o Kailu Sada (deceased) Resident of Village- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.



15. Kamo Sada, Son of Late Bhanu Sada Resident of Village- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
16. Sovit Sada, Son of Late Bhanu Sada Resident of Village- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
17. Aruna Devi, D/o Late Bhanu Sada Resident of Village- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
18. Kamli Sada, S/o Late Bhanu Sada Resident of Village- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
19. Sujeet Sada, S/o Late Bhanu Sada Resident of Village- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
20. Gandrauri Sada, S/o Late Shivnandan Sada Resident of Village- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
21. Rudal Sada, S/o Gandrauri Sada Resident of Village- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
22. Deo Narayan Sada, S/o Late Ram Gulam Sada Resident of Vill. and P.O.- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
23. Sikandar Sada, S/o Deo Narayan Sada Resident of Vill. and P.O.- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
24. Phulo Sada, S/o Late Banarsi Sada Resident of Vill. and P.O.- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
25. Umashankar Sada, S/o Late Banarsi Sada Resident of Vill. and P.O.- Maheshwara, P.S.- Nawkothi, Distt.- Begusarai.
26. Birendra Singh @ Tuntun Singh, S/o Late Phucho Singh Resident of Vill. and P.O.- Manjhaul, P.S.- Cheriabariarpur, Distt.- Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhanendra Chaubey, Adv. Mr. Randhir Kumar No. 1, Adv.
For the Respondent/s	:	Mr. Arbind Kr. Singh, Adv. Mr. Ram Shankar Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

9 10-10-2025 The petitioners-defendants have prayed for the following reliefs :

“That this application is being filed for set-aside the order dated 24/11/2022 passed by Munsif, Manjhaul, Dist- Begusarai, in T.S. NO. 14/2004 whereby the learned court has



allowed the petition dated 7/9/22 filed by purchaser i.e. Respondent No. 9 to 11 under order XXII Rule 10 (1) of C.P.C. for adding them co-plaintiff in the suit as being purchaser, they are necessary party.”

2. Heard both the parties.

3. Learned counsel for the petitioners submits that the defendant (1st set) mentioned in the petition are the original plaintiffs in the Title Suit No. 14 of 2004 which was filed for declaration of title against the defendants. Subsequently, during the course of trial and pendency of the suit, all the plaintiffs have alienated the entire suit property in favour of the respondent Nos. 9 to 11 (respondent 2nd set). Subsequently, they filed a petition under Order XXII Rule 10 (1) of C.P.C. for impleading them as co-plaintiff and permission for continuation of the aforesaid Suit against the defendants and they also filed a leave petition for this purpose, which was allowed vide impugned order dated 24.11.2022. Learned counsel for the petitioners further submits that Intervenor may be added as defendant but can not be added as co-plaintiff.

4. Contrary to this, learned counsel appearing on behalf of the respondents submits that entire interest of the plaintiffs has been devolved to the purchaser after sale of suit property during pendency of the Suit, so, he may be added as



co-plaintiff. In support of this argument, learned counsel has placed reliance upon the order of this Hon'ble Court passed in the case of **Sangeeta Rani Singh and Another vs. Sunil Kumar Gupta and Others**, reported in **(2016) 2 PLJR 40**.

7. The Hon'ble Supreme Court in the case of Amit Kumar Shaw v. Farida Khatoon, (2005) 11 SCC 403 : AIR 2005 SC 2209 has held that "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, the Court has discretion in the matter which must be judicially exercised and an alienee would ordinarily be joined as a party to enable him to protect his interests."

5. After going through the arguments of learned counsels for both the parties, it becomes clear that the entire interest of the plaintiffs in the suit property has devolved in the respondent 2nd set and no interest is survived to contest for the original plaintiffs and Order XXII Rule 10 of C.P.C. reads as follows :-

"10. Procedure in case of assignment before final order in suit.- (1) In other cases of an



assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the Court, be continued by or against the person to or upon whom such interest has come or devolved.

(2) The attachment of a decree pending an appeal therefrom shall be deemed to be an interest entitling the person who procured such attachment to the benefit of sub-rule (1).”

In this provision, it is clearly mentioned that suit may be continued by or against the person to or upon whom such interest has come or devolved.

6. Keeping in view the aforesaid facts, it appears that there is no illegality or impropriety in the order dated 24.11.2022, hence, it is upheld. Accordingly, the instant civil miscellaneous petition stands rejected.

(S. B. Pd. Singh, J)

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