

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1967 of 2017**

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Indrasan Bhagat @ Indrasan Singh, S/o Late Mohar Bhagat, R/o-Village-
Murar Batraha Tola Ahirauli, P.S.-Phulwariya, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar through Collector, Gopalganj (Revenue Deptt.)
2. The Circle Officer, Phulwariya, P.S. and Anchal- Phulwariya, District-
Gopalganj.
3. Rameshwar Sah, Son of Rambriksh Bhagat, Resident of Village- Murar
Batraha Tola Ahirauli, P.S.- Phulwariya, District- Gopalganj.
4. Harishchandra Bhagat, Son of Late Kashi Bhagat, resident of village- Murar
Batraha Tola Ahirauli, P.S.- Phulwariya, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binay Kant Mani Tripathi, Advocate Ms. Ajita, Advocate
For the Res-State	:	Mrs. Jahan Ara, AC to GP-15
For the Res. No. 4	:	Mr. Jitendra Kumar Shrivastava, Advocate

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

Date : 22-07-2025

Heard the learned counsels for the respective parties
and I intend to dispose of the present petition at the stage of
admission itself.

02. The petitioner is aggrieved by the order dated
02.08.2017 passed by the learned Munsif, Gopalganj in Title
Suit No. 20 of 2010 whereby and whereunder the application
dated 21.02.2017 filed by the respondent no. 4 under Order 1
Rule 10(2) of the Code of Civil Procedure, 1908 for
impleadment has been allowed.

03. Learned counsel for the petitioner submits that the



impugned order is not sustainable and has been passed against the facts and it is a completely erroneous order. The learned trial court went on to allow the application of the respondent no. 4 on the ground that “in CWJC No. 6084 of 2009, the learned Single Judge of this Court ordered that the petitioner could file an appeal if the petitioner was not satisfied with by any order passed by the learned Munsif”. In this manner, the application of impleadment of intervenor/respondent no. 4, Harishchandra Bhagat, as defendant no. 4 has been allowed. But the CWJC was disposed of on prayer of the petitioner/respondent no. 4 seeking disposal of Encroachment Case No. 09 of 2005-06 pending before the Circle Officer, Phulwariya, District-Gopalganj. In the order dated 09.10.2012 passed in CWJC No. 6084 of 2009, the learned Single Judge ordered that respondent no. 4, the Circle Officer, Phulwariya would dispose of the aforesaid encroachment case, if the same has not yet been disposed of. So, there was no order that the petitioner could file an appeal, if he was aggrieved by any of the orders of the learned Munsif, Gupalganj. Learned counsel further submits that there is no discussion as to why respondent no. 4 ought to be made a party in the title suit of the petitioner.

04. Learned counsel appearing on behalf of



intervenor-respondent no. 4 submits that the short issue in this matter is right of way and its encroachment. The plaintiff has himself encroached upon the public way. Now, the obstruction has been removed and the intervenor has no grievance on this account and even if the present civil miscellaneous petition is allowed, the respondent no. 4 has no objection.

05. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

06. From perusal of record, I find that the intervention application of respondent no. 4 has been allowed without any discussion and rather reference of the order of this Court passed in CWJC No. 6084 of 2009 has no basis as the said CWJC was disposed of only with direction to the Circle Officer, Phulwariya to dispose of the Encroachment Case No. 09 of 2005-06. So, there was no positive direction with regard to respondent no. 4 in the said case. Therefore, the order allowing the impleadment of respondent no. 4 without recording any finding about existence of interest of such person in the suit property, is not proper and rather it shows erroneous exercise of jurisdiction. Hence, the order dated 02.08.2017 passed by the learned Munsif, Gopalganj in Title Suit No. 20 of 2010 is set aside. As a result, the petition dated 21.02.2017 filed by respondent is



rejected.

07. Accordingly, the present petition stands allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.07.2025
Transmission Date	NA

