

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.154 of 2022

1. Vijay Kumar Yadav Son of Late Rajendra Yadav Resident of Village- Sapta, P.O.- Sapta, P.S.- Rahika, District- Madhubani.
2. Dharendra Kumar Mishra Son of Late Virendra Mishra Resident of Village- Sapta, P.O.- Sapta, P.S.- Rahika, District- Madhubani.
3. Ram Khelawan Yadav Son of Late Jaikant Yadav Resident of Village- Sapta, Ward No.11, P.O.- Sapta, P.S.- Rahika, District- Madhubani.
4. Birendra Kumar Son of Ram Briksh Yadav Resident of Village- Sapta, Ward No.11, P.O.- Sapta, P.S.- Rahika, District- Madhubani.

... .. Petitioner/s

Versus

1. Umesh Yadav Son of Late Sitai Yadav Resident of Village- Sapta, P.O.- Sapta, P.S.- Rahika, District- Madhubani.
2. The State of Bihar through the Collector, Madhubani, P.S.- Madhubani, District- Madhubani.
3. The Circle Officer, Rahika, P.S.- Rahika, District- Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Advocate Mr. Amish Kumar, Advocate Mr. K.C. Jha, Advocate Mr. Aamir Hayat, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy (Gp18) Mr. Baidnath Thakur, Advocate

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

Date : 14-10-2025

The present Civil Miscellaneous application has been filed for setting aside the order dated 18.03.2021 (Annexure-5) passed in Title Suit No. 15 of 2018 (CF No. 11 of 2018) by the Court of Sub Judge-1st, Madhubani whereby and whereunder the petition dated 19.04.2019 filed by the intervenors/petitioners for being added as party in the Title



Suit No. 15 of 2018 has been rejected by the learned Court below.

2. Learned counsel for the petitioner submits that Title Suit No. 11 of 2018 has been filed by Umesh Yadav against the State of Bihar and Circle Officer, Rahika, Madhubani for declaration of his title and confirmation of possession over the suit property mentioned in the plaint and other ancillary relief(s). The petitioner filed a petition under Order I Rule 10 for his impleadment in the aforesaid suit on the basis of the fact that suit property has been recorded as ‘Sarv Sadharan’ meaning thereby common people and nature of the land is mentioned as *Shamsaan* “Cremation place” in *Khatian* (records of right). Learned counsel for the petitioner also submits that on the basis of entry made in the said *Khatian*, he has a right and interest over the suit property although he has no exclusive title over that being the resident of the concerned village. It is further submitted that earlier an encroachment case was filed by villagers of the same village against the plaintiff of this case regarding encroachment made on the aforesaid suit property which was decided by the concerned Circle Officer under Bihar Public Land



Encroachment Act. That encroachment case was decided in favour of petitioners and against the plaintiff. Subsequently, after passing of final order in said encroachment case, the present Title Suit has been filed by the plaintiff for declaration of title and confirmation of possession over the suit properties. Further, learned counsel submits that he is necessary and proper party in this case and for effective and complete adjudication of this case, his presence is required. To buttress his argument he relied upon the judgment passed in the case of **M/S J N Real Estate Vs. Shailendra Pradhan & Ors.** reported in **2025 SCC online SC 1015**. Para 32 of the judgment reads as under:-

“32. Having regard to the material on record, we are of the view that the High Court should not have interfered with the order passed by the Trial Court impleading the original defendant no. 8 (appellant therein) as one of the defendants in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India, 1950. We say so because the genuineness of the transaction, if any, including the genuineness of the documents is to be looked into in the course of the trial. A party who is seeking impleadment may not be a necessary party but still, could be termed as a proper party. There is a fine distinction between a necessary party and a



proper party. A necessary party is a person in whose absence no effective decree could be passed at all by the Court. Whereas a proper party is one who though not a necessary party is a person whose presence would enable the Court to effectively and adequately adjudicate upon all matters in dispute in the suit.”

3. Learned counsel for the respondent submits that petitioner has no locus and right to participate in the aforesaid suit because he has no right title and interest thereon and plaintiff has full right and title over that and he has got a decree passed under Section 106 of Bihar Tenancy Act by the settlement officer. It is also submitted that revisional survey khatiyani has already been corrected in the name of plaintiff. Learned counsel relied on the judgment passed in the case of **Guneshwar Prasad & Anr. Vs. State of Bihar and Ors.** reported in **2000(3) PLJR 514** by this Hon'ble Court and accordingly he also submits that petitioner has got no any interest and he is not entitled to being impleaded in this case.

4. From perusal of aforesaid judgments, it appears that it has been observed by the Hon'ble High Court that the learned Munsif has failed to assign plausible and cogent reason as to why and how he is adding those persons as a



party to the suit. The order is a cryptic one so far as it relates to the addition of these persons as a party to the suit.

5. The case in hand, the plaintiff wants to be impleaded in the suit on the basis of his interest as being the villager in which suit land exists because the RS Khatiyani has been entered as Sarv Sadharan and the nature of the land is mentioned as Shamshaan “place of cremation”. All these questions are important to be decided in the said suit not before this Court.

6. However, this Court is not expressing its view on merits of the case at present, because any finding of this Court may cause prejudice to the Trial Court at the time of passing judgment.

7. Keeping in view the aforesaid facts and considering the Judgment passed in the case of **M/S J N Real Estate Vs. Shailendra Pradhan & Ors.** reported in **2025 SCC online SC 1015**, the petitioner appears to be a proper party whose presence is essential for the proper and complete adjudication of the suit. Hence, he is allowed to be impleaded in the said suit as defendant.



8. Accordingly, the impugned order is set aside and
the present Civil Miscellaneous application stands allowed.

(S. B. Pd. Singh, J)

Ankit Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.11.2025.
Transmission Date	NA

