

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.593 of 2025

1. Sudhir Kumar Sah Son of Late Narayan Sah, Resident of Uttar Maheshwari Jogbani, Ward No. 5, Police Station - Jogbani, District - Araria.
2. Dropati Devi, daughter of Late Narayan Sah, Resident of Uttar Maheshwari Jogbani, Ward No. 5, Police Station - Jogbani, District - Araria.
3. Kiran Devi, daughter of Late Narayan Sah, Resident of Uttar Maheshwari Jogbani, Ward No. 5, Police Station - Jogbani, District - Araria.

... .. Petitioner/s

Versus

1. Manoj Kumar Sah Son of Late Jai Nandan Sah, resident of village- Dakshin Maheshwari Ward No. 17, Police Station - Jogbani, District - Araria.
2. Manju Kumari, daughter of Late Jai Nandan Singh, resident of village- Dakshin Maheshwari Ward No. 17, Police Station - Jogbani, District - Araria.
3. Munni Devi @ Rekha Devi, daughter of Late Jai Nandan Singh, resident of village- Dakshin Maheshwari Ward No. 17, Police Station - Jogbani, District - Araria.
4. Munna Sah, Son of Pitambar Sah, Resident of Palasi, P.O. and Police Station - Palasi, District - Araria.
5. Akhilesh Sah, Son of Pitambar Sah, Resident of Palasi, P.O. and Police Station - Palasi, District - Araria.
6. Manju Devi, D/o Pitambar Sah, Resident of Palasi, P.O. and Police Station - Palasi, District - Araria.
7. Leela Devi, W/o Late Kaushal Kumar Sah, Resident of Palasi, P.O. and Police Station - Palasi, District - Araria.
8. Praveen Kumar Sah, Son of Late Kaushal Kumar Sah, Resident of Palasi, P.O. and Police Station - Palasi, District - Araria.
9. Sarita Devi, daughter of Late Kaushal Kumar Sah, Resident of Palasi, P.O. and Police Station - Palasi, District - Araria.
10. Lalita Devi, daughter of Late Kaushal Kumar Sah, Resident of Palasi, P.O. and Police Station - Palasi, District - Araria.
11. Sanjay Kumar Sah, Son of Jamun Pd. Sah, Resident of village- Choura Perwa, P.O. and Police Station - Forbesganj, District- Araria.
12. Ajay Kumar Sah, Son of Jamun Pd. Sah, Resident of village- Choura Perwa, P.O. and Police Station - Forbesganj, District- Araria.
13. Sita Devi, daughter of Jamun Pd. Sah, Resident of village- Choura Perwa, P.O. and Police Station - Forbesganj, District- Araria.
14. Rita Devi, daughter of Jamun Pd. Sah, Resident of village- Choura Perwa, P.O. and Police Station - Forbesganj, District- Araria.
15. Niraj Kumar Sah, Son of Ram Pd. Sah, Resident of village- Jagir Pipra, Police Station - Kursakanta, District- Araria.



16. Sarita Kumari, Daughter of Ram Pd. Sah, Resident of village- Jagir Pipra, Police Station - Kursakanta, District- Araria.
17. Partima Devi, daughter of Ram Pd. Sah, Resident of village- Jagir Pipra, Police Station - Kursakanta, District- Araria.
18. Uma Devi, daughter of Late Inder Chand Sah and W/o Soti Lal Sah, resident of Village- Bhadeshwar, Police Station - Forbesganj, District- Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Dr. Manoj Kumar, Advocate
Mr. Kshem Sharma, Advocate
For the Res. Nos. 1 to3 : Md. Waliur Rahman, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 17-07-2025

Record taken up on mentioning being made on behalf of the petitioners.

02. Md. Waliur Rahman, *suo motu*, appears on behalf of the respondent nos. 1 to 3 (respondents 1st set).

03. Heard the learned counsel for the petitioners as well as learned counsel for the respondent nos. 1 to 3 and I intend to dispose of the present petition at the stage of admission itself.

04. The present petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 24.02.2025 passed by the learned Sub Judge, Forbesganj, Araria in Title Suit No. 129 of 1994 whereby and whereunder the learned trial court rejected the petition dated 24.01.2025 filed by the petitioners under Order 1 Rule 10 (2) of the Code of Civil



Procedure (hereinafter referred to as 'the Code') for impleading the *lis pendens* purchasers of original plaintiff, Uma Devi, as party defendants in the suit.

05. Learned counsel for the petitioners submits that one Most. Uma Devi wife of Jai Nandan Sah along with her son and daughters filed Title Partition Suit No. 129 of 1994 for partition of the suit property. Subsequently, the original plaintiff Uma Devi and others abandoned the suit and the petitioners became the plaintiffs after transposition. The respondents 1st set were the original plaintiffs. Now, some persons purchased the suit property from Uma Devi and the transposed plaintiffs/petitioners filed an application for impleadment of the purchasers of Uma Devi as party defendants in the suit. But the learned trial court rejected the application filed by the plaintiffs/petitioners holding that Section 52 of the Transfer of Property Act protects the right of the plaintiff. Learned counsel further submits that the learned trial court proceeded in the matter rejecting the impleadment on the ground that there would be endless job to implead party and moreover, the interest of the purchaser has to be protected by the seller who is already party in the case. Thus, the learned trial court further held that whatever would be the fate of the seller the same fate would be



fall on the purchasers and dismissed the impleadment application. Learned counsel further submits that it is an erroneous order and the learned trial failed to exercise the jurisdiction vested in it. When the original plaintiffs abandoned the suit and they were transposed as defendants and these original plaintiffs sold the property, if purchasers are not added that would result in unnecessary complication in the matter. If the purchasers are not allowed to be impleaded, there would be multiplicity of the litigation relating to the same subject matter of the land. The presence of the intervenor-purchasers are necessary for effective disposal of the suit. If the purchasers are added as party defendants, no prejudice would be caused to the parties. Thus, the learned counsel submits that to avoid future complication and multiplicity of the litigation, the application filed by the petitioners for impleadment of purchasers ought to have been allowed and hence, the impugned order be set aside and the *lis pendens* purchasers be added as party in the suit.

06. Learned counsel appearing on behalf of respondent 1st party vehemently contends that there is no infirmity in the impugned order. Learned counsel further submits that the vendors of the purchasers are already on record and have been contesting the suit. Moreover, the properties have



been transferred during pendency of the suit and *lis pendens* purchasers are not supposed to join in the litigation when their vendor is already on record. If the vendors were not contesting the suit or they would not have impleaded as party, then only the purchasers would have a right to get themselves impleaded or the plaintiffs could have asked for their impleadment. But, this is not the situation there. Thus, the learned counsel submits that there is no illegality in the impugned order dated 24.02.2025 and the same be sustained.

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

08. Order 1 Rule 10(2) of the Code reads as under: -

“10 (2). Court may strike out or add parties
– *The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name, of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.”*

09. Obviously, the aforesaid provision empowers the



court to add or strike out the name of any person at any stage of the proceeding. It is entirely at the discretion of the court and the said discretion is to be exercised by the court for effectually and completely to adjudicate upon and settle all the questions involved in the suit.

10. From perusal of record, it is apparent that the original plaintiffs abandoned their suit and even transferred the properties to the purchasers during the pendency of the suit. So, it is the original plaintiffs who have created this mess and if the transposed plaintiffs who were earlier defendants want the impleadment of such purchasers, the trial court ought to have considered this prayer. In this regard, reliance could be placed in the case of *Amit Kumar Shaw and Another vs. Farida Khatoon and Another* reported in *AIR 2005 SC 2209*, wherein the Hon'ble Supreme Court while dealing with the applicability of doctrine of *lis pendens*, held that even a *transferee pendente lite* of an interest in immovable property is a representative-in-interest of the party from whom he has acquired that interest and he is entitled to be impleaded in the suit or other proceedings where the *transferee pendente lite* is made a party to the litigation, he is entitled to be heard in the matter on the merits of the case.



11. Further, the Hon’ble Supreme Court in the case of *Suntibai v. Paras Finance Co. Regd. Partnership Firm Beawer (Raj.)*, reported in (2007) 10 SCC 82, has held that a party having a semblance of interest in the suit property could be impleaded as a party in the suit.

12. In the present case, it is the transposed plaintiffs who are seeking the impleadment of the the purchasers of the original plaintiffs and it appears reasonable that in order to avoid future complications, such purchasers should be allowed to be impleaded as party in order to safeguard their interest as well as the interest of the petitioners.

13. In the aforesaid facts and circumstances, I am of the view that the impugned order dated 24.02.2025 suffers from error of jurisdiction and the same is set aside. As a result, the petition dated 24.01.2025 filed by the petitioners under Order 1 Rule 10(2) of the Code is allowed.

14. Accordingly, the present petition stands allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2025
Transmission Date	NA

