

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1422 of 2019**

Rekha Devi W/o Shri Ram Bilas Singh, Resident of Village and P.O.- Sisauni,
P.S.- Dandari, District- Begusarai.

... .. Petitioner

Versus

1. Kunti Devi W/o Shree Shankar Singh @ Baleshwar Singh. Resident of Village- Khamhar, P.S.- Muffasil, District- Begusarai.
2. Deepak Kumar Singh, S/o Shree Shankar Singh @ Baleshwar Singh, Resident of Village- Khamhar, P.S.- Muffasil, District- Begusarai.
3. Draupadi Devi, W/o Sri Krishnandan Singh, Resident of Village- Sisauni, P.S.- Naokothi, District- Begusarai at present Mohalla Harrakha, P.S.- Town, District- Begusarai.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Jha, Advocate Mr. Sushil Kumar Jha, Advocate Mr. Santosh Kumar Jha, Advocate
For the Res No. 3	:	Mr. J. S. Arora, Sr. Advocate Mr. Ravi Bhatiya, Advocate Mr. Manoj Kumar, Advocate Mr. Rakesh Kumar Advocate

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

Date : 24-02-2025

Heard the learned counsel for the petitioner as well as learned senior counsel appearing on behalf of respondent no. 3. Despite service of notice, there is no representation on behalf of respondent nos. 1 and 2.

02. The petitioner is aggrieved by the order dated 12.07.2019 passed by the learned Sub Judge, Ballia, Begusarai in Title Suit No. 335 of 2014, whereby and whereunder the learned Sub Judge allowed the petition dated 02.02.2016 filed by the intervenor petitioner/respondent no. 3 under Order 1 Rule



10 of the Code of Civil Procedure, 1908 (for short 'the Code').

03. Learned counsel for the petitioner submits that the petitioner purchased a piece of land from respondent no. 2, who got the land from respondent no. 1, and subsequently respondent no. 1 approved the sale to the petitioner by respondent no. 2. Respondent nos. 1 and 2 are mother and son, respectively. Later on, respondent no. 1 sold the same piece of land to respondent no. 3 on 12.07.2014 vide a registered sale deed. Learned counsel further submits that the purchase by petitioner was prior to the subsequent sale deed of the respondent no. 3, as respondent no. 2 sold the piece of land to the petitioner on 17.07.2010 by way of a registered sale deed. Learned counsel further submits that the petitioner got the said land mutated in her name and started paying rent to the State. Since the respondent no. 1, with dishonest intention to grab the suit land, started conspiring to alienate the suit land, the petitioner filed Title Suit No. 335 of 2014 making respondent nos. 1 and 2 as defendant nos. 1 and 2, respectively, while seeking relief of declaration of her title over the suit property as mentioned in Schedule-1 of the plaint. During pendency of the suit, the respondent no. 3 filed intervention application on 02.02.2016 to implead her as necessary party claiming to be a purchaser of the land in



question through sale deed dated 12.07.2014 from the defendant no. 1/respondent no. 1. The said intervention application was allowed by the learned trial court by the impugned order dated 12.07.2019 and the impugned order is not sustainable and it has been passed without appreciating the fact that the plaintiff/petitioner was the purchaser who came into title and possession of the suit land in the year 2010 after purchasing the said land from the son of the respondent no. 1. The relief sought by the plaintiff/petitioner is against respondent nos. 1 and 2 and not against the intervenor. If the same land was sold twice, the subsequent purchaser could only raise a claim for compensation and not a right to be impleaded in the title suit filed by the plaintiff/petitioner. She is neither a necessary nor a proper party. Moreover, a person cannot be impleaded as a party against the wishes of the plaintiff. The petitioner is purchaser of the land in question through a registered sale deed dated 17.07.2010 from the recorded tenant and it was mutated in the name of the petitioner whereas the intervenor has her claim only by virtue of the subsequent purchaser of the land in question through sale deed dated 12.07.2014. Therefore, as the petitioner has been making claim only against defendant nos. 1 and 2/ respondent nos. 1 and 2 for asserting her right, the respondent no. 3 cannot



be impleaded as defendant and the petitioner cannot be compelled to sue respondent no. 3 against whom, she has not sought any relief. Thus, the learned counsel submits that the impugned order is not sustainable and the same needs to be set aside.

04. The learned senior counsel appearing on behalf of intervenor/respondent no. 3 submits that the small issue involved in the present *lis* is whether the sale deed of petitioner or the sale deed of respondent no. 3 is legal and is therefore a valid sale deed. The respondent no. 3 purchased the land from respondent no. 1, who was the exclusive owner of the land, as she got the property after devolution of the same upon her and respondent no. 2 has got no claim over the self acquired property of the respondent no. 1. Still, respondent no. 2 sold the land to the petitioner and the said sale cannot be stated to be valid. In any case, the respondent no. 3, being the purchaser from the rightful owner, she has got proper interest in pursuing the litigation to assert her claim of right and title over the suit land and the learned trial court rightly impleaded her as party.

05. I have given my thoughtful consideration to the rival submission of the parties. 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.”

06. 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.

07. Further, the Hon’ble Supreme Court in the case of ***Sumtibai 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.

08. In the case of ***Amit Kumar Shaw and Another vs. Farida Khatoon and Another*** reported in ***AIR 2005 SC 2209***,



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. Apparently the case of the intervenor is on much better footing as she is not a purchaser *pendente lite*.

09. In the present case, the petitioner and respondent no. 2 claims their right and title over the suit land through two registered sale deeds. Merely because of the sale deed of the petitioner was prior in time, the subsequent sale deed could not be brushed aside on the ground that the subsequent vendor has no right to sale. The question of legality of sale deed and the right and title of vendor is to be decided by the learned trial court and no opinion could be formed beforehand and at this stage. Therefore, the learned trial court has rightly allowed the intervention application of the respondent no. 3.

10. In the light of discussion made here-in-before, I do not find any infirmity in the impugned order. Hence, the impugned order dated 12.07.2019 passed by the learned Sub



Judge, Ballia, Begusarai in Title Suit No. 335 of 2014 is hereby affirmed.

11. Accordingly, the present petition stands dismissed being devoid of any merit.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2025
Transmission Date	Na

