

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CIVIL MISCELLANEOUS JURISDICTION No.311 of 2017**

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1. Most. Madhuri Kunwar and Ors Wife of Late Gajadhar Pandey
2. Arun Kumar Pandey Son of Late Gajadhar Pandey
3. Rajnish Kumar Pandey @ Rajnish Pandey Son of Late Gajadhar Pandey All are residents of Village Post - Saisawaniya, P.S. - Uchkagaon, District - Gopalganj.

... .. Petitioner/s

Versus

1. Rajendra Singh Son of Late Jaleshwar Singh, Resident of Village - Bindwal, P.O. Mustafabad, P.S. - Goryakothi, District- Siwan, At present residing at Village - Chachopali, P.O. - Sisayee Bazar, P.S. - Bhore, District- Gopalganj.
2. Baby Singh Wife of Rajendra Singh
3. Amit Kumar Son of Rajendra Singh All are residents of Village - Bindwal, P.O. - Mustafabad, P.S. - Goryakothi, District - Siwan. At present residing at Village - Chachopali, P.O. - Sisayee Bazar, P.S. - Bhore, District - Gopalganj.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Ranjeet Kumar  
For the Respondent/s : Mr.

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

4      09-02-2026                      The instant application has been filed for setting aside the order dated 16.11.2016 passed by the learned 2<sup>nd</sup> Munsif Siwan in Title Suit No. 137 of 2006 whereby petitioner's application dated 03.11.2015 filed under Order I Rule 10 of code of Civil Procedure has been rejected.

2. Learned counsel for the petitioners submits that Title Suit No. 137 of 2006 has been instituted by Mst. Dulari Kunwar against the defendant. During her lifetime, Mst. Dulari Kunwar executed a registered deed of gift in favour of petitioner



nos. 2 and 3, namely Arun Kumar Pandey and Rajnish Kumar Pandey. It is further submitted that an unregistered Will was also executed by Mst. Dulari Kunwar in favour of petitioner no. 1, namely Mst. Madhuri Kunwar. The aforesaid petitioners seek to be impleaded in the said title suit in order to contest the matter on the basis of the registered deed of gift and the Will. Accordingly, they filed an application under Order I Rule 10 of the Code of Civil Procedure; however, the said application has been rejected by the learned Trial Court.

3. The impugned order has been passed on the ground that the aforesaid two documents were purportedly executed during the pendency of the suit and, therefore, the application for impleadment was rejected. However, for the purpose of impleadment under Order I Rule 10 of the Code of Civil Procedure, the Court is not required to examine the merits of the case or to determine whether the applicants would ultimately win or lose the case. What is required to be seen is whether the proposed intervenors have any interest in the subject matter of the suit or not. On the basis of the registered deed of gift, it is evident that petitioner nos. 2 and 3 have acquired an interest in the suit property and, therefore, they appear to be necessary parties for proper and complete adjudication of the suit. Hence



their impleadment is necessary to contest the suit. So far as petitioner no. 1 is concerned, the Will has not been probated till date. For want of any order of probate passed by competent court, petitioner no. 1 cannot be said to have acquired any enforceable right and interest in the suit property under Section 213 of the Indian Succession Act.

4. In view of the above, petitioner nos. 2 and 3 are ordered to be impleaded in the Title Suit No. 137 of 2006 as plaintiff to contest the suit against defendant.

5. With the aforesaid, the instant application stands disposed of.

**(S. B. Pd. Singh, J)**

Ankit Kumar/-

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