2026:AHC:209814

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 4482 of 2026

Bal Kishun And 5 Others

.....Petitioner(s)

Versus

State Of U.P. And 7 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Manish Kumar Patel, Mohan Yadav
Counsel for Respondent(s)	:	Abhishek Kumar Yadav, C.S.C., Vineet Sankalp

Court No. - 51

HON'BLE ARUN KUMAR, J.

1. Heard Sri Mohan Yadav, learned counsel for the petitioners, learned Standing Counsel for respondent nos. 1 & 2 and Sri Abhishek Kumar Yadav, learned counsel for respondent no. 3.

2. The present petition has been filed challenging the order of the respondent no. 2 dated 31.08.2026, by which the respondent no. 4 has been impleaded as respondent no. 5 in Second Appeal No. 3 of 1990-91.

3. It is contended by learned counsel for the petitioners that the respondent no. 2 manifestly erred in allowing the application moved by respondent no. 4 under Order 1 Rule 10(2) CPC, as the said application was not maintainable. He has further contended that at the second appellate stage, a non-party to the proceedings could not have been impleaded. Moreover, the respondent no. 2 could have entertained an application only under Order 41 Rule 20 CPC.

4. I have considered the submissions made by learned counsel for the petitioners and perused the records.

5. The perusal of the order dated 31.08.2026 shows that the respondent no. 4 has sought impleadment as respondent in the second appeal because one of the respondents had transferred his share in the property in dispute to the respondent no. 4, pursuant to which he stepped in the shoes of his vendor. The perusal of the record shows that the original suit was filed against Dwarika, on whose death Vijay Kumar was substituted in the proceedings at the second appellate stage. Vijay Kumar had transferred the property on

04.07.1991 to one Sadhana Singh, who transferred the said property to Asha Singh on 30.05.2001, which was purchased by respondent no. 4 by registered sale deed dated 24.01.2018. After the death of Vijay Kumar during the pendency of the Second Appeal No. 3 of 1990-91, he was substituted by his legal heirs, the respondent nos. 5 to 7, who had not inherited any right in the land in dispute as it had already been transferred. In fact, the appellants in the second appeal were required to substitute the transferee as legal representatives of Vijay Kumar, under the provisions of Order XXII Rule 10 CPC as held by the Hon'ble Supreme Court in the case of **Khemchand Shankar Choudhary vs. Vishnu Hari Patil, (1983) 1 SCC 18**. The aforesaid proposition was subsequently followed in **Thomson Press (India) Ltd. vs. Nanak Builders & Investors (P) Ltd., (2013) 5 SCC 397**.

6. In the aforesaid circumstances, the second appeal being pursued against the heirs of Vijay Kumar, who have not inherited any land in dispute, would lead to multiplicity of proceedings as Vijay Kumar has already transferred the land in dispute to one Sadhana Singh and by a subsequent transfer, respondent no. 4 had purchased it.

7. In view of the aforesaid facts, the impleadment of respondent no. 4 in the second appeal, who has purchased the property in dispute from the contesting respondent, is justified in order to avoid multiplicity of proceedings as held by the Hon'ble Supreme Court in the case of **Pankajbhai Rameshbhai Zalavadiya vs. Jethabhai Kalabhai Zalavadiya, (2017) 9 SCC 700**.

8. In view of the aforesaid, no interference is warranted with the order of respondent no. 2 dated 31.08.2026.

9. The writ petition lacks merit and is accordingly **dismissed**.

October 7, 2026
Sartaj

(Arun Kumar,J.)

Digitally signed by :-
SARTAJ AHMAD
High Court of Judicature at Allahabad