

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1746 of 2019

- 1.1. Lal Babu Giri Son of Late Bindeshwari Giri Resident of Village Bhatwa Bazar, P.O. Kuwari, P.S. Kateya, District- Gopalganj.
- 1.2. Ashok Giri Son of Late Bindeshwari Giri, Resident of Village Bhatwa Bazar, P.O. Kuwari, P.S. Kateya, District- Gopalganj.
- 1.3. Haridya Gir Son of Late Bindeshwari Giri, Resident of Village Bhatwa Bazar, P.O. Kuwari, P.S. Kateya, District- Gopalganj.
- 1.4. Savitri Giri @ Savitri Devi D/o Late Bindeshwari Giri Wife of Manoj Giri, Resident of Village Durparood, Korba, Ward No. 3, P.S. and P.O. Korba, District Korba (Chhatisgarh). At present residing at Bhatwa Bazar, P.O. Kurwari, P.S. Kateya, District- Gopalganj.
- 1.5. Gayatri Giri @ Gayatri Devi D/o Late Bindeshwari Giri, Wife of Kamlesh Giri, Resident of Village 2724 Ara, Sentorium Mahilong, P.O. and P.S. Mahuilong District Ranchi (Jharkhand), at present resident of Village Batwa Bazar, P.O. Kuwari, P.S. Kateya, District - Gopalganj.

... .. Petitioner/s

Versus

1. Matuki Giri @ Dharam Nath Giri Son of Late Jai Giri Resident of - Bhathwara, P.S.- Kateya, District- Gopalganj.
- 2.1. Devendra Tiwari, Son of late Surendra Tiwari@ Lallan Tiwari, Resident of Village- Kateya, P.O. Kateya, P.S. Bishunpura, District- Kushinagar, U.P. at present resident of Village- Tiwari Chhapra , P.O. Bhathwa Bazar, P.S. Kateya, District- Gopalganj.
- 2.2. Vijay Nath Tiwari, Son of Surendra Tiwari@ Lallan Tiwari, Resident of Village- Kateya, P.O. Kateya, P.S. Bishunpura, District- Kushinagar, U.P. at present resident of Village- Tiwari Chhapra , P.O. Bhathwa Bazar, P.S. Kateya, District- Gopalganj.
- 2.3. Manju Devi, Son of Surendra Tiwari@ Lallan Tiwari, Wife of Nagendra Mishra, Resident of Village- Kateya, P.O. Kateya, P.S. Bishunpura, District- Kushinagar, U.P. at present resident of Village- Tiwari Chhapra , P.O. Bhathwa Bazar, P.S. Kateya, District- Gopalganj.
- 2.4. Chanda Devi, Daughter of Surendra Tiwari@ Lallan Tiwari, Resident of Village- Panan, P.S. Kateya, P.O. Kateya, District- Gopalganj.
- 2.5. Maya Devi, Daughter of Surendra Tiwari@ Lallan Tiwari, Wife of Harendra Tiwari, Resident of village- Hariharpur, P.S. Yadopur, P.O. Yadopur, District- Gopalganj. At present Resident of- Brahm Chawk, Thana Road, P.O. and Gopalganj and Resident of Tiwari Chhapra , P.O.- Bhathwa Bazar, P.S. Kateya, and District- Gopalganj.
- 2.6. Seema Devi, Daughter of Surendra Tiwari@ Lallan Tiwari, Wife of Aashutosh Pandey, Resident of Village- Khalwan Goan, P.O. Bagahi Bazar, P.S. Bhore, District- Gopalganj, At Present Resident of Tiwari Chhapra , P.O.- Bhathwa Bazar, P.S. Kateya, and District- Gopalganj.

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Dubey

For the Respondent/s : Mr. Chandra Kant

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

CAV JUDGMENT

Date : 09-04-2026

The instant civil miscellaneous application has been filed for setting aside the order dated 15.05.2019 passed in T.A. No. 35 pf 2000 by the 1st Additional District Judge, Gopalganj whereby and whereunder the application filed by the petitioner under Order I Rule 10(2) of C.P.C. for adding the petitioner as respondent in the instant title appeal, has been rejected without assigning any reason.

2. Respondent-Surendra Tiwari @ Lallan Tiwari had filed Title Suit No. 473 of 1993 against Matuki Giri @ Dharam Nath Giri which was decreed by the learned Court of Sub-Judge Gopalganj. Against the judgment and decree, the defendant/appellant Matku Giri preferred an appeal i.e. Title Appeal No. 35 of 2000. During the pendency of this appeal petitioner/proposed intervenor has purchased the same suit land from the respondent-Surendra Tiwari @ Lallan Tiwari on 07.05.2015 and then he filed a petition for his impleadment in the said appeal which was rejected by the impugned order that is under challenge in the present civil miscellaneous application.



3. Learned counsel for the petitioner submits that petitioner is bona fide purchaser of the suit plot and without the knowledge of this litigation and he has apprehension that respondent namely Surendra Tiwari @ Lallan Tiwari may leave the pairwi and may gained over by the appellant in future. So in order to protect his right and interest, it is essential for him to be impleaded in this appeal. To buttress his argument learned counsel for the petitioner placed reliance in the case of ***Yogesh Goyanka Vs. Govind and Ors.*** reported in **(2024) 7 Supreme Court Cases 524** in which Hon'ble Supreme Court held as under:

“20. In the particular facts and circumstances of this case, Mr. Sundaram has been able to satisfy this Court on the possibility of collusion between the Respondents. It is a fact that the Plaintiffs and Defendants are relatives. More importantly, Plaintiffs approached the court in the Underlying Suit after a substantial delay of 11 years whereas admittedly, the revenue records were mutated to reflect the name of Respondent No. 21 since 2007. It is also curious that the claim of non-payment of consideration by the Appellant was made for the first time before this Court.

21. On the other hand, the Appellant has a registered sale deed in his favor and has therefore seemingly acquired an interest in the Subject Land. Whether or not the consideration was paid, is a disputed question of fact that shall be determined by the Trial Court. Therefore, in the



considered opinion of this Court, considering the totality of the circumstances in this case, including the fact that the trial has not progressed significantly, the Appellant herein, in the interest of justice, is entitled to impleadment in the Underlying Suit in order to protect his interests, if any, in the Subject Land.

22. In light of the aforesaid, the appeal stands allowed. The Impugned Order and the order of the ADJ dated 10.10.2019 are set aside and the Appellant is directed to be added as a partydefendant in the Underlying Suit.”

4. Per contra learned counsel for the respondent/appellant submits that petitioner has purchased the suit property during the pendency of the appeal which is hit by the rule of lis pendens and petitioner has derived his right title from the vendor-Surendra Tiwari @ Lallan Tiwari who is still contesting the appeal.

5. In this context, it is relevant to consider the provision of order XXII Rule 10 of C.P.C. which reads as under:-

“10. Procedure in case of assignment before final order in suit. – (1) In other cases of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the Court, be continued by or against the person to or upon whom such interest has come or devolved.



(2) The attachment of a decree pending an appeal therefrom shall be deemed to be an interest entitling the person who procured such attachment to the benefit of sub-rule (1)."

6. Considering the aforesaid facts of this case it seems essential that intervenor be impleaded in the appeal to protect his interest with respect to his purchased property but he will be confined to the pleadings and evidence of the vendor only during the course of his argument.

7. Accordingly, the present application stands allowed.

(S. B. Pd. Singh, J)

Ankit Kumar/-

AFR/NAFR	NAFR
CAV DATE	13.03.2026.
Uploading Date	17.04.2026.
Transmission Date	NA

