

**In the court of Chanchal Kumar Tiwari  
District & Additional Sessions Judge-II, Begusarai**

Title Suit No. 02 of 2023

{Probate Case No. 09 of 2022}

Rajeev Kumar vs Sri Sarad Chandra Thakkar

**03.12.2024** – A petition, dated 19.09.2023, filed on behalf of Sanjay Gautam, under Order 1 Rule 10(ii) of C.P.C. to add his name as defendant no. 2 in the suit, has been pressed today. The copy of the same has already been served to the Ld. Counsel for the plaintiff.

Heard the arguments of both the parties at length.

The Ld. counsel for the petitioner submitted that the petitioner came to know that a probate case no. 9/2022 was filed by Rajeev Kumar on the basis of forged and fabricated deed of will, dated 23.01.2020, which was illegally executed by his wife, Indu Bhatt, with respect to the suit land. The Ld. Counsel further submitted that the suit property was purchased land of this intervenor defendant in the name of his wife, Indu Bhatt, and after purchased he came in actual and physical possession over the suit land and constructed a double storey building from his income and he got his name entered into the Register II of the Begusarai Anchal and he paid the land rent receipt. Showing the fact that the wife of the petitioner, Indu Bhatt, died during COVID-19, the Ld. Counsel further submitted that the alleged will, dated 23.01.2020, alleged executed by his wife in favour of Rajeev Kumar is a forged document which was created in collusion with the witnesses alongwith deed writer. On these grounds, it has been prayed to add the petitioner as defendant no. 2 in this suit.

On the other hand, the Ld. Counsel for the plaintiff has put no objection on the petition and has prayed to pass a just order on the issue.

Perused the case record. A perusal of the record shows that firstly this case has been instituted in the shape of probate case and during the course of hearing the petitioner/applicant, Sanjay Gautam, who is said to be the husband of the deceased testatrix of the will, dated 23.01.2020, filed an objection petition alleging therein that his wife (the testatrix) had not executed any will in favour of the plaintiff and thereby the probate case has been converted into Title Suit vide order, dated 11.04.2023, of this court

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Contd.....03.12.2024

Page No. 02

(predecessor-in-office). It appears that this petition has been filed under Order 1 Rule 10(ii) of C.P.C. which contains **“a person may be added as a party to a suit in two cases only, i.e., when he ought to have been joined and is not so joined, i.e., when he is a necessary party, or, when without his presence the questions in the suit cannot be completely decided.”** It goes to appear, from the record, that the petitioner is the husband of the deceased testatrix, Indu Bhatt, thus it is clear that he is a necessary party of the suit and without his presence the questions in the suit cannot be completely decided. Moreover, during the course of hearing of this petition the Ld. Counsel for the plaintiff appeared before the court and he put no objection on the petition of the petitioner with respect to add his name as defendant in this suit.

Hence, in the facts & circumstances discussed above & considering the willingness of the parties as well as in the interest of justice, this court is of the view to **allow** the petition, dated 19.09.2023, filed under Order 1 Rule 10(ii) of the C.P.C. to add the name of the petitioner as defendant no. 2 in this suit. Office is directed to add the name of the petitioner in this suit as defendant no. 2. in presence of the Ld. Counsels of the petitioners. Put up on 17-12-24 for further step.

(Dict. & Corrected)



District & Addl. Sessions Judge-II

Begusarai