

In the Court of Munsif, Bakhri, Begusarai.

Title Suit Case No. 12/1997

Biranchi Noniya and Ors. Plaintiffs

Vs.

Yogendra Noniya and Ors Defendants.

Order:-

1. The petition is filed on behalf of plaintiff no.8 for transposing the plaintiff no.1A, 1B, 3A to 3C in the category of defence in suit under order 1 rule 10 r/w Section 151 of C.P.C. dated 29.10.2025. The plaintiff No.1 Biranchi Noniya and plaintiff No.3 Ram Pukar died leaving behind their legal heirs and representative accordingly the plaintiff no.8 had filed substitution petition in suit which was allowed on 23.07.2025. The legal heirs and representatives of the deceased plaintiff no.1 and 3 have been arrayed as plaintiff no.1A, 1B, 3A to 3C respectively in the title page of the suit but they are not willing to either appear in suit or to do proper pairvi in suit for safeguard of their claim and interest. For the ends of equity, justice and good conscience and to avoid future complication if any, it is desirable to transpose the plaintiff no. 1A, 1B, 3A to 3C in the category of defendant 5th party in suit.

Details of the plaintiff no. 1A, 1B, 3A to 3C to be transposed in the category of defendant 5th party.

Defendant no. 29 Rekha Devi

30. Sarita Devi

Both D/o- Biranchi Noniya

31. Rustam Devi, W/o- Late Ram Pukar

32. Gaurav Kumar

33. Aman Kumar

Both minor sons of Late Ram Pukar under the natural guardianship of their mother Rustam Devi.

All resident of village and police station and sub-division-Bakhri, District-Begusarai--
Defendant 5th party

2. The rejoinder was filed on behalf of defendant no 25 against the petition of plaintiff dated 29.10.2025 which are as follow:- The petition on behalf of plaintiff dated 29.10.2025 is misconceive and not tenable in the eye of law and facts. The said petition of the plaintiff is not only against the law and order of c.p.c. but is vexatious to kill the important time of the court. It is a matter of fact that the plaintiffs motive is very clear to linger the case and harass the defendant physically as well as economically. So far as the matter is concerned to transpose the plaintiffs into the category of defendants it very tactical step of the plaintiff to linger the case. whereas the learned counsel of the plaintiff knows very well that a party should have to come himself to pray the same and no other party has right to transfer any party one category to another. It is quite misuse of time and law. The plaintiff has no right to transpose any plaintiff into category of defendant, more so ever, there is no provision in c.p.c. to do so as prayed by the plaintiff in his petition.

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3. LAW :-

Order 1 rule 10

Suit in the name of wrong plaintiff.- (1) Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied that the suit has been instituted through a bona fide mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the Court thinks just.

Section 151 of C.P.C

Saving of inherent powers of Court.- Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice, or to prevent abuse of the process of the Court.

4. Discussion and Decision on Petition:- In the light of petition of the plaintiff and rejoinder of the defendant no. 25. The petition of plaintiff is rejected because party should come himself and no other party has right to transfer any party from one category to another category. The parties are absent. Hence, the petition of the plaintiff is rejected dated 29.10.2025.

Mishal Sinha

Munsif

Civil Court, Bakhri,

Begusarai.

Date:- 10.12.2025