

In the Court of Sukul Ram, Sub-Judge-I Cum ACJM, Narkatiaganj

Partition Suit No. 38/2022

Sanjay Kumar Rai & Others.....Plaintiffs
V/S

Brij Kishore Rai & others.....Defendants

<u>DATE</u>	<u>ORDER</u>	<u>REMARKS</u>
04.06.2026	Both parties filed their attendances. Two petitions have been filed on behalf of plaintiff under order 22 rule 04 of C.P.C and under order 22 rule 4 C.P.C read with section 5 of the Indian Limitation Act dated 25.05.2026 which rejoinders have not been filed by defendants. Record is fixed for order on petitions of the plaintiff dated 25.05.2026. Learned counsel of the plaintiff prayed in petition under order 22 rule 04 of C.P.C that defendant no. 3 (Shushila Devi) has paid the debt of nature complete of month before leaving behind a son and two daughter namely Vikash Chaudhary, Rita Chaudhary, Sanju Chaudhary requiring to be prosecuted in his place in the suit. After a long span of time for the first time got the knowledge about the death of defendant no. 3 through the villagers thereafter the plaintiff anyhow searched and obtained the names and address of the legal heirs of the representative of the deceased defendant hence the petition is within time after getting the knowledge of the said death of the defendant no. 3. It is therefore prayed that be pleased to allow the name of Vikash Chaudhary, Rita Chaudhary, Sanju Chaudhary Ramekbal Chaudhary to substituted in place of defendant no. 3 in the interest of justice. Learned counsel of the plaintiff prayed in petition under order 22 rule4 C.P.C read with section 5 of the Indian Limitation Act that the above noted suit has been filed to pass a decree of partition of 1/72nd and 1/54th share of plaintiff no. 1 and 2 and let it be carved out in separate allotment through the process of the court. Plaintiff never made purposely delay in making the application for substitution appears to be a good and appealing ground for setting aside the abatement in the interest of justice and if abatement is not set aside the plaintiff shall be deprived of lio legal right and right to property and it will also cause the	

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Continue 04.06.2026	multiplicity of the suit. The court should take the liberal view in the matter of setting aside the abatement. It is therefore prayed to allow the name of Vikash Chaudhary, Rita Chaudhary, Sanju Chaudhary, Ramekbal Chaudhary to be substituted in place of defendant no. 3 in the interest of justice. No rejoinder has been filed by defendants on petitions of the plaintiff but petitions of the plaintiff were orally opposed by defendants. Heard the Ld. Counsels of both the parties and perused the record. From perusal of the record it transpires that the record has been coming for hearing on two petitions dated 25.05.2026 of the plaintiff and prayed to allow the name of Vikash Chaudhary, Rita Chaudhary, Sanju Chaudhary Ramekbal Chaudhary to substituted in place of defendant no. 3 in the interest of justice. Petitions of the plaintiff are simple in nature. Therefore, in the interest of justice the petitions of the plaintiff dated 25-05-2026 are hereby allowed at a cost of Rs. 500/- and it is directed to the plaintiff to substitute the name of legal heirs of defendant no. 3 within time limit. Put up on 09-07-2026 for further proceeding. Dictated Sub-Judge-I Narkatiyaganj	
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