

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

Partition Suit No. 172/2000

CIS No. PS 189/2018

Namaji Mian and others.....Plaintiffs

V/S

Taiyab Mian & others.....Defendants

<u>DATE</u>	<u>ORDER</u>	<u>REMARKS</u>
11.06.2025	<p>Both parties file their attendances. A petition dated 12.07.2023 has been filed on behalf of Plaintiff under Order 01 Rule 10 Code of Civil Procedure which is fixed for order today.</p> <p>Learned counsel of Plaintiffs prayed that this is a suit for partition, seeking 65/216 share, in the partition claimed properties. Schedule no. 1 property is the subject matter of this present suit. The defendants having appeared and filed W.S disputing the facts and asserting their case, in otherwise manner. The case is of 23 years old and now the hearing has not yet begun and in the meantime, the defendant no. 1 Taiyab Mian and his wife naming Jhamela Khatoon, though not party in the suit, without taking prior permission of the court, have jointly transferred the land of suit plot no. 654, 967, 968, 1237 and 1248 of khata no. 12 to their son Md. Younus by virtue of registered deed of gift dated 20-02-2023 and 16-03-2023 for wrongful gain and to victimise the plaintiffs, though the alleged donor Md. Younus, acquired no title and possession, over the alleged gifted land, rather in fact, the alleged gifted land, remained and still remains in joint possession of the parties to the suit and this transaction has necessitated to file this instant petition. It is worth mentioning here that the defendant no. 1, is gradually withdrawing himself from the adjudications of the case and if no embargo is made out, the defendant will transfer the entire suit land</p>	

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<p>Continue 11.06.2025</p>	<p>and leave nothing to be adjudicated. The alleged donee naming above and alleged donor Jhamela Khatoon are the necessary party to be impleaded in the suit to meet the question of defect of parties, if arises in the trial. Their presence before the court are highly necessary for enabling the court, in reaching the right conclusion of the case. It is therefore prayed that your honour would be pleased enough to make the below named person to be impleaded as defendant no. 8 and 9.</p> <p><u>To be impleaded</u></p> <p>Defendant no. 8 Jhamela Khatoon, W/O Taiyab Mian Defendant no. 9 Md. Younus, S/O Taiyab Mian Both are R/O Vill- Senwariya, P.S and Anchal Sikta (Kangli), P.O Kathiya Mathiya, Dist- West Champaran</p> <p>On the other hand Ld. Counsel of defendants has filed a rejoinder and prayed that the petition under order 01 rule 10 CPC is not maintainable either in the eyes of law or on the facts of the case. This Plaintiff has no right on cause of action to file such petition. Statements made in para no. 1, 3 and 4 is wrong, illegal and concocted. It is not true to say that suit property is partitionable land and plaintiffs have 65/216 share in the suit land. Plaintiff has filed wrong suit with wrong statements. Plaintiffs have no right to challenge the transfer (by gift) made by defendant no. 1 and Jhamela Khatoon. It is accepted position that Jhamela Khatoon is not party of this suit and Md. Yakub is also not party of this suit. Hence any act made between them is not liable to be</p>	
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<p>Continue 11.06.2025</p>	<p>gradually withdrawing himself from the adjudications of the case and if no embargo is made out, the defendant will transfer the entire suit land and leave nothing to be adjudicated. The alleged donee naming above and alleged donor Jhamela Khatoon are the necessary party to be impleaded in the suit to meet the question of defect of parties, if arises in the trial. Their presence before the court are highly necessary for enabling the court, in reaching the right conclusion of the case.</p> <p>Therefore, in the interest of justice, the petition of the Plaintiff dated 12.07.2023 is hereby allowed. The Plaintiff is directed to amend the Plaint within time limit.</p> <p>Put up on 04-07-2025 for hearing.</p> <p style="text-align: right;">Dictated</p> <p style="text-align: right;">Sub-Judge-I Narkatiaganj</p>	
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