



**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.41 of 2025**

**In**  
**Civil Writ Jurisdiction Case No.3488 of 2016**

Yasir Naseem, son of Late Naseem Akhtar, permanent resident of Mohalla- Line Bazar Chowk Purnea, P.S.-Khazanchi Haat, P.O.-Purnea, District- Purnea, at present residing at Mohalla-Naugarwa Sultanganj, P.O. Mahendru, P.S.-Sultanganj, District-Patna.

... .. Petitioner/s

Versus

1. Nuzhat Naz wife of Late Ashraf Imam, resident of Mohalla- Line Bazar Chowk Purnea, P.S.- Khazanchi Haat, P.O.- Purnea, District- Purnea.
- 2.1. Md. Yasir Naseem, S/o Sabiha Naseem, Resident of Mohalla- Sultanganj Naugarwa, P.S. Sultanganj, District- Patna.
- 2.2. Faisal Naseem, S/o Sabiha Naseem, Resident of Mohalla- Sultanganj Naugarwa, P.S. Sultanganj, District- Patna.
- 2.3. Md. Kashif Naseem, S/o Sabiha Naseem, Resident of Mohalla- Sultanganj Naugarwa, P.S. Sultanganj, District- Patna.
- 2.4. Huma Naseem Hussain, D/o Sabiha Naseem, resident of ETIA-E-ABBAS, Narkatghat, Painthantoli, Alamganj, Patna- 800007.
4. Mrs. Sabina Mustafa Wife of Sharful Haque, daughter of Late Mustafa Mallick, residing at City Centre Complex, Bari Road, Patna.
5. Miss Rubina Mustafa, Daughter of Late Mustafa Mallick, residing at City Centre Complex, Bari Road, Patna.
6. The Bihar State Sunni Waqf Board through its Chief Executive Officer, 34, Haj Bhawan, Second Floor, Hardinge Road Ali Imam Path, Patna.
7. Asmat Ismailee Wife of Late Akhtar Imam Ismailee, resident of Nisha Apartment R.T.O. Karbala Kohe Fiza Town and District- Bhopal M.P.
8. Ejaz Imam Ismailee, son of Late Akhtar Imam Ismailee, resident of Nisha Apartment R.T.O. Karbala Kohe Fiza Town and District- Bhopal M.P.
9. Farhat Imam, daughter of Late Akhtar Imam Ismailee, resident of Nisha Apartment R.T.O. Karbala Kohe Fiza Town and District- Bhopal M.P.
10. Nikhat Imam, daughter of Late Akhtar Imam Ismailee, resident of Nisha Apartment R.T.O. Karbala Kohe Fiza Town and District- Bhopal M.P.
11. Dr. (Mrs.) Akhtar Jahan Mallick, wife of Dr. Azhar Imam Ismailee, resident of Mohalla- Line Bazar Chowk Purnea, P.S.- Khazanchi Haat, P.O.- Purnea, District- Purnea at presently residing at Post Box No. 3489 Riqua Dubai U.A.E.

... .. Respondent/s

**Appearance :**

|                      |   |                                    |
|----------------------|---|------------------------------------|
| For the Petitioner/s | : | Mr. Sajid Salim Khan, Sr. Advocate |
|                      |   | Md. Sufyan, Advocate               |
| For the Respondent/s | : | Mr. Waliur Rahman, Advocate        |





Mr. Iqbal Asif Niazi, Advocate  
Ms. Tooba Hera, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**ORAL JUDGMENT**

**Date : 17-04-2026**

Heard learned counsels for the parties.

2. The instant civil miscellaneous petition has been  
filed seeking the following reliefs :-

*“A. For issuance of an appropriate order or direction setting aside the order dated 17-12-2015 (Annexure-18) passed by Sri Md. Perwez Alam Additional District Judge 4<sup>th</sup> Patna District-Patna in Misc Appeal No-1/2002 whereby petition ated 27-04-2015 filed under Order 1 Rule 10 CPC by the intervenor/petitioner with a prayer to implead him as party respondent in the case has been rejected by the court below.*

*B. For issuance of an appropriate order or direction directing the Court below to rehear the petition dated 27-04-2015 filed under Order 1 Rule 10 CPC by the intervenor/petitioner and after hearing the parties allow the same and implead the intervenor/petitioner as party respondent in the case.*

*C. For any other relief or reliefs for which petitioner is entitled in the opinion of this Hon’ble Court.”*

3. The short facts of the case are that the original petitioner filed an application before the court of learned Additional District Judge-4, Patna in Misc. Appeal No.01/2002 under Order 1 Rule 10 of the Code of Civil Procedure for his impleadment, but the said application was rejected and the





petitioner came before this Court challenging the order dated 17.12.2015, by which the application of the petitioner for his impleadment was rejected.

4. It has been submitted at the bar that the petitioner died on 21.06.2020 and I.A.No.04/2021 and I.A.No.06/2024 have been filed for the substitution of the deceased petitioner. It also appears respondent no.2 was the mother of petitioner and after her death, the petitioner has been made party as respondent no. 2(A) and his two brothers, namely Faisal Naseem and Md. Kashif Naseem have been made party as respondent nos. 2(B) & 2 (C) in the present case, *vide* order dated 24.10.2019 passed in CWJC No.3488 of 2016 by learned Coordinate Bench of this Court. It is pertinent to note here that CWJC No.3488 of 2016 has been converted into the present civil miscellaneous petition and *vide* the same order, the respondent no. 3, namely Najma Ismailee was deleted from the array of the parties as her heirs/legal representatives were already on record as respondents. This Court took note of this anomaly in its order dated 04.08.2025 as to how the matter has been proceeding after the death of the petitioner.

5. Now, it has been submitted on behalf of both the parties that the present matter be disposed of as the original





respondent no.2 was already a party in Misc. Appeal No. 01/2002 as respondent no.1 and after her death, her heirs/legal representatives including this petitioner would have been substituted in her place. Hence, nothing remains in the matter and the matter has become infructuous.

6. However, Mr. Sajid Salim Khan, the learned senior counsel, who represented the petitioner, submits that interlocutory applications have been filed for bringing on record the brothers of the deceased petitioner as legal representatives of the deceased. Moreover, the petitioner was not only aggrieved by his non-substitution, but was also aggrieved by an observation made by the learned appellate court that the intervener petition was filed on the basis of forged and fabricated documents. This observation might cause prejudice in the mind of the learned appellate court.

7. The contention of the learned senior counsel has been vehemently opposed by Mr. Waliur Rahman, learned counsel for the respondents, who submits that as the matter has become infructuous due to death of respondent no.2 and now the petitioner has also died, nothing remains in the matter and the submission made by the learned senior counsel is without any legal force. However, Mr. Waliur Rahman, on specific





query, concedes that the veracity of documents of the petitioner have not been tested and there was no occasion for the learned first appellate court to record any finding about the documents of petitioner being forged and fabricated.

8. Having regard to the peculiar facts and circumstances of the case and also considering the fact that the matter became infructuous when the respondent no. 2 died and now the petitioner is also dead, the present civil miscellaneous petition is disposed of in the light of discussion made hereinabove.

9. Pending interlocutory applications, if any, also stand disposed of.

**(Arun Kumar Jha, J)**

V.K.Pandey/-

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| AFR/NAFR          | NAFR       |
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