

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**S.A. No. 118 of 2015**

|                       |               |      |      |            |
|-----------------------|---------------|------|------|------------|
| Rafique Ansari & Ors. | ....          | .... | .... | Appellants |
|                       | <i>Versus</i> |      |      |            |
| Shekh Navi Bux        | ....          | .... | .... | Respondent |

**CORAM: HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY**

For the Appellants : Mr. Birendra Kumar, Advocate  
: Mr. Mahesh Kr. Mahto, Advocate  
For the Respondent : Mr. Praveen Kr. Varma, Advocate

**Order No.17 Dated- 16.02.2023**

**I.A. No.6106 of 2016**

Learned counsel for the appellants submits that this interlocutory application has been filed with a prayer to implead the purchasers of the property mentioned in para-8 of this interlocutory application as respondent nos. 2 & 3. It is next submitted by the learned counsel for the appellants that the defendants of Title Suit No. 39 of 2003 out of which this second appeal has arisen filed Title Eviction Suit No. 15 of 2004 against the tenants of the appellants. The tenants of the appellants lost the said Title Eviction Suit No. 15 of 2004 and the tenants of the appellants vacated the suit premises and delivered the possession of the same to the legal representatives of the original plaintiff -Sheikh Rajjak- of whom the present appellants of the second appeal are the legal representatives. Consequent upon the same, the tenant of the appellants also withdrew Title Appeal No. 32 of 2008 preferred by the tenants of the appellants against the said judgment and decree passed in Title Eviction Suit No. 15 of 2004. In Execution Case No. 13 of 2008 arising out of the judgment and decree passed in Title Eviction Suit No. 15 of 2004, the appellants herein filed an application under Order XXI Rule 99 of the Code of Civil Procedure but during the pendency of the said petition, the defendants got possession of the suit premises with the help of the police. The appellants filed an interlocutory application no. 4329 of 2015 to stay the proceedings of Execution Case No. 13 of 2008. It is next submitted

by the learned counsel for the appellants that the respondents after getting the possession of the suit premises, in unauthorized manner, sold the property including the share of the appellants to Sri Om Prakash Sahgal and his wife Resham Sahgal and the purchase of the suit property during pendency of litigation is hit under Section 52 of the Transfer of Property Act. Hence, it is submitted that the said Om Prakash Sahgal and his wife Resham Sahgal be impleaded as respondent no. 2 & 3 of this appeal.

Having heard the submissions made at the Bar and after going through the materials in the record, it is pertinent to mention here that Section 52 of the Transfer of Property Act, 1882 takes care of a situation where the transfer of the suit property during the pendency of the suit is made. The two persons who have claimed to have been purchased the property were not parties to the suit. Nor they were the parties in the appeal before the first appellate court. There is no material in the record to suggest that they are interested in the result of this appeal.

Under such circumstances, this Court is not inclined to implead the subsequent purchasers of the suit property during the pendency of this second appeal, to this second appeal.

Accordingly, this interlocutory application being without any merit is dismissed.

**(Anil Kumar Choudhary, J.)**

**S.A. No. 118 of 2015**

The learned counsel for the appellants prays for eight weeks' time to advance argument on the merits of the appeal.

Prayer for time is allowed as the last chance.

List this appeal after eight weeks, under the heading "**for Hearing**"