



2026:AHC-LKO:21512

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

MATTERS UNDER ARTICLE 227 No. - 1285 of 2026

Smt. Sunita And 4 Others

.....Petitioner(s)

Versus

Subhash And 13 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Chandra Bhanu Singh
Counsel for Respondent(s)	:	

Court No. - 5

HON'BLE ALOK MATHUR, J.

1. Heard Shri C.B. Singh on behalf of the petitioners.
2. In light of the proposed order, notices to private respondents, are dispensed with.
3. It has been submitted on behalf of the petitioners that the petitioners are permanent resident of Village Bahadurpur Da. Jayas, Pargana Rokha, Tehsil Tiloi, District Amethi and the disputed property, which is subject matter of the disputed land of the petitioners.
4. It has been submitted that Shiv Balak (the plaintiff) had filed a suit for permanent injunction before the Civil Judge (J.D.), Dalmau, Raebareli against 4 people, namely, Smt. Chhanga, Smt. Piyara, Raja Ram and Babu Lal. It is during the suit proceedings that a written statement was filed on behalf of Raja Ram and Babu Lal i.e. defendants no. 3 and 4 stating that they do not have any right, interest and dispute in the property in question and give the statement in favour of opposite party no.2, who according to them was in possession of the disputed property. During the suit proceedings the opposite party no.3 Raja Ram died on 18.08.2010 and was duly substituted by a legal heir, who were made defendants no. 3/1 to 3/7 and are petitioners in the present writ petition and similarly Babu Lal died on 12.05.2022 and the suit proceedings were abated with regard to defendant no. 4, namely, Babu Lal.
5. It is in the aforesaid circumstances the Application No. 111 was moved

by the plaintiff for a deletion of opposite party no. 3/1 to 3/7. In the said application it was stated that once the written statement has been filed on behalf of defendants no. 3 and 4, unequivocally stating that they are not interfering in the disputed suit property and have further stated that it is the opposite no.2, namely, Smt. Piyara, who is the person responsible for the same and the cause of action for plaintiff against opposite parties no. 3/1 to 3/7 had dissipated and consequently he asserted his rights as *dominus litis* and prayed for deletion of opposite parties no. 3 to opposite party no.7.

6. The trial court considering the application of the plaintiff, allowed the same by means of the order dated 24.09.2024. The petitioners being aggrieved by the order dated 24.09.2024, had preferred an appeal, before the District Judge, Raebareli. In the said appeal, it was stated that basis of the plaintiff, while moving the Application no. 111 Ka was the written statement filed on behalf of the predecessor in interest of the petitioners, who had stated that they are not interfering in the disputed property and had made allegations against the defendant no. 2- Smt. Piyara. In the appeal it was stated that the said affidavit was forged and fictitious and disputed the written statement.

7. The appellate court considered the grounds raised by the petitioners and was moved by the fact that the plaintiff was the *dominus litis* and he has preferential right to add and delete any of the parties. Apart from which, he relied upon the provisions of Order 1 Rule 10(2) CPC where the discretion is vested to add and delete any party in the suit proceedings and consequently held that the plaintiff has exercised his discretion as *dominus litis* and there is no infirmity in the same and accordingly dismissed the appeal affirming the order of the trial court, dated 24.09.2024.

8. Counsel for the petitioners while assailing both the orders dated 24.09.2024 and 01.12.2025, has submitted that once the petitioners have been deleted from array of the parties, the defendant in the suit proceedings they will not be able to assert or assail the validity of the written statement filed by the predecessor-in-interest of the petitioners.

9. It has been submitted that the said written statement was filed in the suit proceedings on 05.12.1997 and there is no dispute with regard to the fact that during the suit proceedings despite the fact, that the petitioners have substituted on the death of Raja Ram but he never raised objections or disputed the contents of the written statement, filed on 05.12.1997, it is on first time, this ground was taken before the appellate court.

10. In any view of the matter merely because written statement does not suit the petitioners cannot be a ground for stating that the said written statement was forged and fabricated. There is no reason to doubt that the affidavit was filed by the predecessor-in-interest and in any view of the matter, the petitioners being successors and legal heirs of Raja Ram, are bound by the contents of the said written statement.

11. Apart from the above, I find that the plaintiff in his right as *dominus litis* can implead or delete any party at his discretion, in the suit proceedings and in case, it is demonstrated before the trial court, that necessary and proper party has not been impleaded, certainly it is open for the trial court, to dismiss the suit for non-joinder of necessary parties, but in any view of the matter the plaintiff cannot be forced to make any person as a defendant in the suit proceedings, subject to provisions of Order 1 Rule 10 of the C.P.C.

12. It is, in the aforesaid circumstances, I do not find any infirmity the order of the trial court, dated 24.09.2024 as well as the order of the appellate court, dated 01.12.2025.

13. For the reason aforesaid, I do not find any ground for interference in exercise of power under Article 227 of the Constitution of India, the petition is devoid of merits and is, accordingly, ***dismissed***.

(Alok Mathur,J.)

March 25, 2026

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