

Sri Kan
P.S. Ag
District

1. Bali
Baragh
2. Suda
3. Baha
Residen
4. Hare

-Defendant No.6-Petitioner.

Versus

-Plaintiff/Respondent 1st set.

-Defendant 1st set/Respondent 2nd set.

5. Muneshwar Singh

-Defendant 2nd set- Respondent 3rd set.

For the Petitioner/s : Mr Sanjay Kumar Ghosarvey, Adv.

Mr. Manoj Kumar Pandey, Adv.

CORAM: HONOURABLE MR. JUSTICE V. NATH

3 24-03-2015

Heard the learned counsel for the petitioner and

the learned counsel for the respondents. With the consent of the parties, this writ application is being disposed of at this stage.

Calling in question, the impugned order dated 26.04.2014 by which the learned court below has allowed the prayer of the plaintiff for amendment in the plaint, the defendant 2nd set has preferred this application under Article 227 of the Constitution of India.

The factual exposes' are that the plaintiff



claiming to have title and possession over the suit land has filed the suit for declaration of title and injunction restraining the defendants from interfering in his possession. The defendants have resisted the relief as prayed by the plaintiff asserting their own exclusive title and possession over the suit land. During the pendency of the suit, the plaintiffs filed a petition alleging therein that the defendants dispossessed the plaintiffs on 01.04.2014 from the suit land by putting Chauki, Kursi, Tin and fixing the bamboos etc by digging the soil. The defendants opposed the prayer for amendment. The learned court below by the impugned order, after hearing the parties, has allowed the prayer for amendment with cost.

The learned counsel for the petitioner has submitted that the amendments sought for by the plaintiff are not bonafide and are meant only to further delay the proceeding of the suit. It has been canvassed that the plaintiffs are in the habit of filing frivolous petitions whenever the suit reaches to the final stage of hearing. The learned counsel has also contended that the defendant-petitioner is in possession over the suit land as owner thereof and the plaintiffs with intention to make out a case of forcible dispossession, have prayed for the amendment. It has also been submitted that on earlier occasion also the prayer for

amendment of the plaintiffs was rejected and when the matter came before this court, the same was dismissed with observation that the amendment could not have been allowed after the trial had begun.

After careful consideration of the matter and the submissions, it is manifest that the suit has been filed by the plaintiffs for declaration of title and grant of injunction claiming their possession over the suit land. The defendants in their turn have claimed their title and possession over the suit land. The prayer for amendment appears to have been necessitated when the plaintiff has alleged forcible dispossession at the hands of the defendant. The learned court below has, after hearing the parties and considering the entire aspect of the matter, recorded the conclusion that the amendment as prayed is fit to be allowed for complete adjudication of the controversy between the parties and to avoid multiplicity of the proceeding. The liberty to the defendant-petitioner has also been granted to file additional written statement. This Court also does not find substance in the submission that the prayer for amendment has been made malafidely. In view of the claim of the defendant-petitioner to be in possession over the suit property, the amendment, if allowed, will not prejudice his case. This Court therefore is not inclined to interfere with the

impugned order. At this juncture, it is however necessary to consider the submission made by the learned counsel for the petitioner that the matter has reached to the stage of final disposal and due to the amendment, the suit could not be disposed of. The learned counsel appearing for the plaintiff-respondent, however, has submitted that he requires only two days for leading his evidence in support of the facts brought by way of amendment. The learned counsel for the defendant-respondent has also submitted that the defendants also require two days at the most for leading their evidence in rebuttal.

Considering the aforesaid submissions and stand, the learned court below is directed to proceed accordingly and dispose of the suit expeditiously preferably within a period of 6 months from the date of receipt/production of a copy of this order. It is made clear that no unnecessary adjournment should be granted to the parties and the opportunity to lead evidence shall be granted only to the extent as stated by the learned counsel for the parties as above.

The writ application is dismissed with the aforesaid directions and observations.

(V. Nath, J)

Nitesh/-

U			
---	--	--	--