

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11209 of 2014

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Deo Nandan Paswan, son of Late Karu Pawan, Resident of Village -
Jamheta, P.S. - Fatehpur, District – Gaya- Defendant No. 4...Petitioner
Versus

1. Jaglal Yadav, son of Late Amrit Yadav, Resident of village Ganeshi Dih
P.S. - Fatehpur, District - Gaya.
2. Kailash Giri, son of Gokul Giri, Resident of Village - Jamheta, P.S. -
Fatehpur, District - Gaya.
3. Bhola Prasad, son of Late Ram Pd. Paswan, Resident of Village -
Jamheta, P.S. - Fatehpur, District - Gaya.
4. Vazir Paswan
5. Saryu Paswan
- Both sons of Late Bira Paswan, Resident of Village - Jamheta, P.S. -
Fatehpur, District – Gaya..... Plaintiffs- Respondent 1st Party
6. Parmeshwar Sao Keshri, son of Darshani Sao
7. Peyare Sao Keshri, son of Parmeshwar Sao, both Resident of Village-
Jamheta, P.O. + P.S. - Fatehpur, District - Gaya.
8. Sheonandan Yadav, son of Narsingh Yadav, Resident of Village -
Satania, P.O. + P.S. - Fatehpur, District - Gaya.
9. Parmeshwar Sao
10. Karu Sao
11. Tilak Sao
12. Bihari Sao All (9 to 12) sons of Late Halkhori Sao, Resident of Village -
Jamheta, P.S. - Fatehpur, District - Gaya.
13. Kamla Devi, wife of Suresh Vishwakarma, Resident of Village -
Charokhri, P.O. + P.S. - Fatehpur, District - Gaya.
14. Kali Yadav, son of Bhikhari Yadav
15. Sheodhari Yadav, son of Gopi Yadav both resident of Village -
Khadarpura, P.S. - Fatehpur, District - Gaya.
16. Janaki Mishtri, son of Late Jageshwar Mistri
17. Madan Mistri, son of Late Barho Mistri
18. Baldeo Ballav Mistry, son of Munshi Mistri, All resident of Village -
Bhalua, P.O. + P.S. - Fatehpur, District- Gaya ..Defendants
Respondent 2nd Party Respondents

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Appearance :

For the Petitioner/s : Mr. Dronacharya
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 23-02-2015

Heard Mr. Dronacharya, the learned counsel appearing
for the petitioner.

Calling in question, the order allowing the amendment



in the plaint, the defendant-petitioner filed this application under Article 227 of the Constitution of India. Admittedly, the suit has been filed for declaration of title and confirmation of possession. There is no dispute that the defendant-petitioner appeared and filed the written statement. Thereafter, the issues have been framed on 17.01.2013. The plaintiffs filed the petition for amendment on 23.03.2013. The prayer made in the amendment petition was to add by amendment, the averment regarding the sending of notice under Section 80 C.P.C. on 05.12.2001 to the State of Bihar and also to make the State of Bihar as party-defendant in the suit. By the impugned order, the said prayer for amendment has been allowed.

Mr. Dronacharya, the learned counsel for the petitioner has submitted that the amendment has been sought for after much delay and the proviso introduced by amendment in Order VI Rule 17 C.P.C. stares at the face of the plaintiffs in seeking such amendment. It has been further submitted that the plaintiffs by the amendment want to introduce a new cause of action arising in the year 2013. The learned counsel has also placed reliance on a judgment in the case of ***Mashyak Grihnirman Sahakari Sanstha Maryadit V. Usman Habib Dhuka reported in 2013 (2) P.L.J.R. S.C. 356*** for bolstering his submission.

After careful consideration of the facts and

submissions, it is limpid that the issues in the suit have been framed on 17.01.2013 and the amendment has been prayed on 23.03.2013. It is manifest that by amendment, the plaintiffs want to introduce the facts of sending of notice in the year 2001 (prior to the filing of the suit) under Section 80 C.P.C. to the State of Bihar. The plaintiffs have made statements explaining the delay and have stated in that regard that it was due to wrong advice of the counsel that the said averments could not be included in the plaint earlier. The learned court below has allowed the prayer for amendment after holding that those amendments are necessary for complete and effective adjudication of the real controversies in the suit. It is well settled that all such amendments, which are required for effective and final adjudication of the controversies in the suit should be allowed. The civil disputes are not to be thrown out merely on the ground of technicalities.

In this view of the matter, this Court is not persuaded to interfere in the impugned order.

The writ application is accordingly dismissed.

(V. Nath, J)

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