

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12990 of 2012

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Sukhari Hajra son of Motor Hajra, R/O Village-Dhawahi, PS. Harsidhi,
Distt-East Champaran, Motihari.

.... .. Defendant/Petitioner/s

Versus

1. Chhunu Hajra son of late Bagar Hajra,
2. Raja Hajra son of Chhunu Hajra, R/O Village-Dhawahi, PS. Harsidhi,
Distt-East Champaran, Motihari.

.... .. Plaintiffs/Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Pandey -Advocate

For the Respondent/s : Mr. Vijay Shankar Srivastava -Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

8 07-12-2015 Heard learned counsel for the petitioner as well as

learned counsel for the respondents.

Seen the order impugned. From the WS, more particularly, paragraph-8 thereof, it is evident that the defendant had claimed the land to be under possession of Bagar Hajra since the time of Ex-landlord and after his death Dhannu Hajra, defendant came over the land and is in possession thereof peacefully.

Now by way of amendment the aforesaid theme is intended at the end of the defendant to be substantiated by way of divulging the fact that the land in question had already been settled in favour of aforesaid Bagar Hajra vide Case No. 02/1965-66 and on such disclosure has prayed for amendment of para-8.

It has been submitted on behalf of

respondents/plaintiffs that the aforesaid event will defeat his interest in the background of the fact that plaintiffs claimed the land by way of settlement in the year 1985. Not only this, the examination of witness on behalf of plaintiffs had already been concluded.

The amendment under amended C.P.C. has been duly clutched but by way of different judicial pronouncements, the same has been relaxed, moreover, mere having a disclosure regarding source although there happens to be definite case of the petitioner/defendant that they are over land through line of their ancestor is not going to change the scenario. Furthermore, such amendment, if so perceived by the plaintiffs may properly be replied at his end either by way of amendment in the plaint or by recalling the witnesses including he himself which, the learned lower court will perceive and with such liberty along with cost of Rs. 2500/-, considering the conduct of the petitioner/defendant, the order impugned is set aside.

Petition is allowed.

(Aditya Kumar Trivedi, J)

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