

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22324 of 2012

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Shailendra Kumar S/O Sri Akhilesh Kumar R/O Mohalla- East Ashok
Nagar, Road No. 12, Kankarbagh, P.O.- Lohiya Nagar, P.S.- Kankarbagh,
District- Patna.

.... Petitioner/s

Versus

Swati Kumari W/O Shailendra Kumar, D/O Ghanshyam Prasad R/O
Mohalla- Prasad Bigha, P.S. Nawadah, District- Nawada, Permanent R/O
Mohalla- Rani Bazar Kawakole, P.S. Kawakole, District- Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Durgesh Nandan

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

3 21-04-2015 Heard Mr. Durgesh Nandan, the learned counsel for
the petitioner.

By filing this application under Article 227 of the
Constitution of India, the petitioner has questioned the legality of
the order passed by the learned Additional Principal Judge, Family
Court, Patna in Matrimonial Case No. 52 of 2005 rejecting the
prayer of the petitioner for amendment in the petition.

From the facts stated in the petition and considering
the submissions made by the learned counsel for the petitioner, it
is transparent that the petitioner has filed Matrimonial Case No. 52
of 2005 for restitution of conjugal rights. The petition has been
filed on 16.05.2011 by the petitioner for amendment under Order

6 Rule 17 C.P.C. By the amendment, the petitioner wants to change the nature of the proceeding from the restitution of conjugal rights to one for divorce and further also seeks to introduce several paragraphs containing new facts. The petitioner has also prayed to implead seven persons as opposite parties. By the impugned order, the learned court below after hearing the parties, rejected the prayer for amendment.

This Court after hearing the learned counsel for the petitioner and perusing the impugned order has not been persuaded to find any illegality or material irregularity in the impugned order rejecting the prayer for amendment by the petitioner. It is trite that by amendment, the nature and scope of the suit can not be changed.

In result, this writ application is dismissed.

However, the petitioner shall be at liberty to pursue the remedy available to him in accordance with law.

(V. Nath, J)

Devendra/-

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