

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 2388 of 2011

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1. Sri Rameshwar Thakur @ Rameshwar Sharma S/O Santlal Thakur R/O Vill.
Manpur, P.S. Bheldi, P.O.- Katsa, Distt. Saran

.... Petitioner/s

Versus

1. Rampravesh Thakur S/O Nauratan Thakur R/O Vill. Nathua, P.O.- Awari
Bhaya- Maranhra, Distt. Saran
2. Jairm Thakur S/O Nauratan Thakur R/O Vill. Nathua, P.O.- Awari Bhaya-
Maranhra, Distt. Saran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. PRABHAKAR NATH RAI

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 14-08-2015

Heard both sides.

The defendant of T.S. No. 08 of 2005 has filed the present application to assail the order dated 22.07.2010 whereby some amendment in the plaint sought for by the plaintiff respondent was allowed. The Court took the view that they were formal in nature to clarify certain facts which were already pleaded in the plaint. The Trial Court also found that the amendment is not going to change the nature of the suit which was filed for setting aside the *ex pare* decree passed in T.S. No. 172 of 1989. The trial Court however, considering the delay in filing such application which caused inconvenience to the plaintiff respondent imposed cost for allowing the application.

Counsel for the respondent has submitted that by such

amendment valuable right vested in the plaintiff is sought to be taken away. The plaintiff stated about the weak eye sight. He wants now to amplify that only clarification is sought. Any statement made in the pleadings is not admission. Even if it is admission the parties can always explain the circumstances under which that statement was made. The trial Court in the impugned order has found the amendment formal in nature causing no prejudice to the other side. Indisputably the amendment sought by the plaintiff is not going to change the nature of the suit. A wide power has been conferred on the Court to grant such amendment either in the plaint or in the written statement for doing substantial justice between the parties and to minimize litigation. The reasons assigned by the court below for allowing the application, in my view, do not suffer from any patent illegality meriting interference by invocation of discretionary writ jurisdiction under Article 227 of the Constitution of India. The writ application is dismissed.

(Kishore Kumar Mandal, J)

Prakash/-

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