

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4751 of 2011

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1. Bhagwati Shankar Gupta Son Of Late Rameshwar Dayal Resident Of Village Manjhaulia, P.O. And P.S. Manjhaulia, District West Champaran
2. Tekman Mahto son of Sheoratan Mahto Resident Of Village Bhanachakli, P.O. And P.S. Manjhaulia, District West Champaran
3. Bigu Mahto Son Of Sheoratan Mahto Resident Of Village Bhanachakli, P.O. And P.S. Manjhaulia, District West Champaran

.... .. Defendants-Petitioners

Versus

1. Saroj Kumar Gupta Son Of Satya Narain Bedpuria Resident Of Village Manjhaulia, P.O. And P.S. Manjhaulia, District West Champaran
2. Manoj Kumar Bedpuria Son Of Satya Narain Bedpuria Resident Of Village Manjhaulia, P.O. And P.S. Manjhaulia, District West Champaran
3. Pankaj Kumar Bedpuria Son Of Satya Narain Bedpuria Resident Of Village Manjhaulia, P.O. And P.S. Manjhaulia, District West Champaran

.... .. Plaintiffs-Respondents

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Appearance :

For the Petitioner/s : Mr. Ratan Kumar Sinha

For the Respondent/s : Mr. Mahesh Narayan Parbat, Sr. Advocate.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 01-09-2015

Heard Mr. Ratan Kumar Sinha for the petitioners and
Mr. Parbat Sr. Advocate for the plaintiffs- respondents.

The defendants-petitioners of Title suit no. 178 of
1998 have filed the present application under Article 227 of the
Constitution of India to challenge the pregnability /sustainability of
the order dated 14.12.2010 passed by the learned Munsif, Bettiah,
West Champaran whereby on an application dated 18.08.2010
(Annexure-4) filed by the plaintiffs- respondents, time was extended
to effect amendment in the plaint which was allowed by the Court on

15.1.2009.

The plaintiffs filed the suit for grant of permanent injunction against the defendants. On 13.9.2004 (Annexure-1) an application was filed seeking amendment in the plaint under Order 6 Rule 17 of the Code of Civil Procedure (for short 'the Code'). On contest, the same was allowed by the trial court on 15.01.09 and the plaintiff was directed to effect correction/amendments in the plaint within 14 days subject to payment of cost in the sum of Rs. 700/- to the defendants. For one reason or the other, the amendment in the plaint could not be carried out. Having found so the defendants filed an application on 18.8.2010 (Annexure-3) to restrain the plaintiffs from effecting amendment /correction in the plaint permitted by the Court under order dated 15.01.2009. On the same day the plaintiffs filed the application seeking extension of time for the reasons set out therein. A rejoinder thereto was filed by the defendants.

On a consideration of the submissions of the parties, the trial court by the impugned order extended the time having found reasonable explanation offered therefor by the plaintiffs trial court extended the time for effecting corrections/amendments in the plaint as per order dated 15.01.2009 subject to payment of cost in the sum of Rs. 2000/- payable to the defendants. When the order was passed one witness was examined in chief on behalf of the plaintiffs. It was,

thus, initial stage of the trial.

Mr. Sinha counsel for the petitioner submits that a party who is careless in carrying out the orders of the Court within time granted by the Court is not entitled to such order. The reasons assigned by the plaintiffs was/were not acceptable. The trial court acted with material irregularity in exercise of its jurisdiction. Counsel for the petitioner is, however, not able to state about the receipt/deposit of the cost as directed under two orders of the Court.

Mr. Parbat conversely submitted that the Court has discretion in such matter. He referred to Order 6, Rule 18 of the Code wherein the Court on application filed by the party can extend the period for effecting correction beyond the period prescribed under the Code if a reasonable cause is shown. He also submits that the cost as imposed by the Court under orders dated 15.01.2009 and 18.8.2010 has been deposited by the respondents. He is, however, unable to state whether the corrections/amendments in the plaint was carried out or not as per the order.

On a consideration of the rival submissions what appears to this Court is that the trial Court, in the facts of the case, exercised its discretion permissible in law. The supervisory writ jurisdiction in such matter, in my view, should not be exercised when the Court has acted within the bounds of jurisdiction. Law in

this regard is well settled. No prejudice as such is caused to the defendants as after such amendment the case of the plaintiffs shall be decided on merit.

In the light of the discussions made hereinabove, this Court declines to interfere with the impugned order. The writ application is dismissed. The plaintiffs- respondents shall be permitted by the Court to effect correction-amendment in the plaint if not already carried out.

(Kishore Kumar Mandal, J)

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