

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14016 of 2014

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1. Shams Tabrez.
 2. Md. Nasim.
 3. Shamim.
 4. Lallu.
 5. Md. Shahid.
 6. Md. Egbal All sons of Late Md. Shahbuddin.
 7. Manzar Raza.
 8. Md. Moin both sons of Late Md. Imamuddin.
 9. Tanwir Ahmad.
 10. Shabbir Ahmad.
 11. Sagheer Ahmad.
 12. Hedaytullah Nawab All sons of Late Md. Serajuddin.
 13. Jamila Wife of Late Md. Serajuddin All resident of village - Pathan Patti, P.S. Motihari, District - East Champaran.

.... Petitioner/s

Versus

1. Shrimati Prema Devi wife of Mohan Pd. Gupta Resident of village - Motihari, Lohar Patti, P.S. Motihari, District - East Champaran.
2. Shafi Ahmad Son of Late Md. Yusuf @ Bhujwan Resident of village - Sidnagar, P.S. Chhatauni, District - East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nafisuzzoha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 27-01-2015

Heard the learned counsel for the petitioners.

Aggrieved by the order allowing the prayer of the defendant for amendment in the written statement, the present

application under Article 227 of the Constitution of India has been filed by the plaintiff-petitioners.

The learned counsel for the petitioners has submitted that the prayer for amendment takes away the admission made by the defendant in his written statement. It has also been submitted that the defendant has changed the nature and scope of the suit by preferring this amendment.

From the perusal of the impugned order and after considering the submissions, it is pellucid that the plaintiffs have come out with the case that Nawab Mian was the son of Most. Tetri whereas the defendant earlier denied the said case of the plaintiffs. After filing of the documentary evidence by the plaintiffs, which were filed admittedly much after the framing of the issues, the defendants filed amendment petition praying to add the averment that Nawab Mian was also son of Most. Tetri alongwith Sabdul Main through whom they claimed the suit properties. The learned court below has held that the prayer for amendment cannot be rejected only on the ground of delay and it would also cause no prejudice to the plaintiffs as the defendant has simply taken the line/case of the plaintiffs.

The learned counsel for the petitioners has also submitted that in view of the proviso of Order VI Rule 17, once after the hearing has started in the suit, no amendment can be made. However, this

Court is not in a position to align with the said proposition in view of the proviso to Order VI rule 17 C.P.C. itself which has also given the discretion to the court to permit amendments in the pleadings in the suit. It is well settled that such amendment which are necessary for adjudication/determination of the crucial issues arising between the parties in the suit, should be allowed.

In this view of the matter this Court is not inclined to interfere with the impugned order. The writ application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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