

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6190 of 2014

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Govind Kumar Poddar Son Of Late Dev Karan Das Poddar, Resident Of Anandpuri, Boring Road, P.S. Sri Krishna Puri, Town And District Patna And Present Resident Of Hotel Lane, Frazer Road, P.S. Kotwali, Town And District Patna

.... Petitioner.

Versus

M/S Hotel Satkar Pvt. Ltd. Having Its Registered Office At Frazer Road, P.S. Kotwali, Town And District Patna Through Its Managing Director Sri Batuk Prasad Narayan Singh

.... Respondent.

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Appearance :

For the Petitioner/s : Mr. Arjun Kumar, Adv.

For the Respondent/s : Mr. Shyam Sunder Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

2 03-11-2015

Heard the learned counsel for the petitioner.

Calling in question, the impugned order by which the learned court below has allowed the prayer for amendment in the plaint as made by the plaintiff, the defendant has filed this application under Article 227 of the Constitution of India.

The suit has been filed for eviction of the defendant on the ground of expiry of lease and default in payment of rent. The suit at one stage was dismissed for default but later on restored. After restoration, the plaintiff filed the petition praying for amendment in the plaint by incorporating the averments relating to the subletting of the suit premises by the defendant. It was also stated in the petition that the defendant was avoiding

appearance after subletting the suit premises. The learned court below after hearing the parties has allowed the prayer for amendment in the plaint by the impugned order.

The learned counsel appearing for the petitioner has submitted that the impugned order cannot be sustained in law on two counts. Firstly, because the amendment would change the nature of the suit and secondly because the discretion exercised by the learned court below in allowing the prayer for amendment is in ignorance of the proviso to Order 6 Rule 17 C.P.C.

After careful consideration of the matter, materials on record and the submission on behalf of the petitioner, it is manifest that the suit has been filed for eviction of the defendant on the ground of expiry of lease and default in payment of rent. The addition of the averments relating to subletting of the suit premises by the defendant during the pendency of the suit would definitely not change nature of the suit. In any view of the matter it can be an addition to the grounds already set forth for eviction of the defendant. The learned counsel for the petitioner has also submitted that no rejoinder to the petition for amendment has been filed by the defendant denying the averments made therein.

Moreover, from the consideration of the amendments sought by the plaintiff, it is evident that the facts sought to be incorporated by amendment are in the nature of subsequent event. This Court is of definite opinion that the proviso to Order 6 Rule 17 C.P.C. is not attracted in such cases and a court in appropriate cases has ample jurisdiction to take into notice the subsequent event and allow the prayer for amendment of the pleadings to incorporate such facts. The perusal of the impugned order shows that the learned court below has applied the correct principles of law in the facts and circumstances of the case. This Court, therefore, does not find reasons to interdict the said order.

The writ application is, accordingly, dismissed.

(V. Nath, J)

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