

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14259 of 2010

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1. Md. Anwar Hussain S/O Late Md. Salim R/O Vill.- Chak Daulat, P.O. And P.S.- Bakhtiyarpur, Distt.- Patna
2. Syed Badi Asghar @ Babu S/O Late Syed Ahasan R/O Mohalla- Salimpur, Ward No. 9, Municipality Barh, P.O. And P.S. Barh, Distt.- Patna

.... Petitioner/s

Versus

1. Sri Sharwan Kumar Yadav S/O Late Thakur Pd. Yadav R/O Mohalla- Nand Gola, Patna City, P.O. Patna City, P.S. Malsalami, Distt.- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SABA ASHFAQUE

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 14-07-2015

On the touchstone and principle already laid down by the courts with regard to amendment, the amendment so allowed by the trial court, which is a court of Sub Judge-1, Barh, in Title Suit No.35 of 2009, does not change the nature of the suit.

Submission of the counsel while assailing the order dated 14.7.2010 is that the plaintiff's bonafide, who happens to be the respondent in the present writ application, is suspect and lacks bona fide. These petitioners were willing to refund the money to the plaintiff but by the amendment petition his original prayer for refund of money is being watered down and he wants a declaration and a decree to be passed for registration and transfer of the property in his favour through the court since it is a suit for specific performance.

The Court has gone through the amendment petition.

Reading of the same would surely indicate that the nature of the suit has not changed. Watering down the relief in no manner alters the adjudication and declaration which is required to be made by the trial court. What should be the nature of the relief is for the trial court to decide. Allowing the amendment petition does not guarantee the relief which the plaintiff desires. I am sure the trial court will see every aspect of the matter which governs such adjudication of suit.

The amendment so allowed, therefore, is not required to be interfered with. Let the petitioners defend their interest before the trial court.

Writ application is dismissed.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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