

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6951 of 2011

=====

1. Bibi Shamima Begum @ Shamima Begum W/O Md. Ali Hussain Resident of Village- Khaira, P.O- Khaira, P.S- Khaira, District- Saran.

.... Petitioner/s

Versus

1. Mahmood Alam S/O Ahmand Sakur Resident Of Village- Khaira, P.O & P.S- Khaira, District- Saran.
2. Kamal Hassan S/O Fazrul Rahman Resident Of Village- Khaira, P.O & P.S- Khaira, District- Saran.
3. Esarul Haque S/O Late Samassudin Resident Of Village- Khaira, P.O & P.S- Khaira, District- Saran.
4. Esarul Haque S/O Late Samassudin Resident Of Village- Khaira, P.O & P.S- Khaira, District- Saran.
5. Farman Ali S/O Late Samassudin Resident Of Village- Khaira, P.O & P.S- Khaira, District- Saran.
6. Firoj Ali S/O Late Samassudin Resident Of Village- Khaira, P.O & P.S- Khaira, District- Saran.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Mahesh Narayan Parbat, Sr. Advocate
Mr. Sanjay Kumar Jha

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 31-08-2015

Heard Mr. Parbat for the petitioner.

The plaintiff of Title Suit No. 336 of 2000/8 of 2009 has filed the writ application aggrieved by the order dated 27.6.2009 whereby the application (Annexure-1) filed for amendment in the plaint has been rejected.

The suit was filed for declaration that disputed land as described in Schedule-II of the plaint be declared part of Schedule-I property of the plaintiff and the act of encroachment of defendants on

the said land is illegal. A further prayer was made for putting her in possession after removal of encroachment of defendant no. 1 from Schedule-II land. Written statement was filed by the defendants. The matter remained pending for framing of the issues. At this stage, the application for amendment (Annexure-1) was filed which has been rejected.

In spite of notice, no one has appeared on behalf of the defendants-respondents to oppose the petition.

Mr. Parbat, while assailing the order, submits that a wide discretion has been bestowed on the Court to allow amendment in the pleadings at any stage if they sub-serve the ends of justice. The Court has to bear in mind that the provision has been incorporated with the dual purpose of guarding against the multiplicity of litigations and for effective adjudication of the real dispute between the parties. The reason which has been assigned by the Court in the order is delay tactics.

I heard him and perused the order. Such application was filed by the plaintiff before framing of the issues. It was thus at the initial stage of the trial. Only one reason has been assigned by the Court which, in the facts of the case, does not appear to be convincing. The matter was required to be examined considering other salient grounds on which such amendment can be prayed.

Resultantly, the writ application is allowed. The order dated 27.6.2009 passed in Title Suit No. 336 of 2000/8 of 2009 is quashed. The Trial Court shall consider the application of the plaintiff afresh in accordance with law.

(Kishore Kumar Mandal, J)

Pankaj/-

U		T	
---	--	---	--