

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13235 of 2012

=====

1. Narendra Prasad @ Narendra Prasad Sao S/O Late Sohrai Lal Sao Resident Of Sita Saran Lane And Kannu Lal Road, Mithapur, P.S. Jakkanpur, P.O.- G.P.O., Patna District - Patna

2. Utpal Kumar S/O Narendra Prasad Resident Of Sita Saran Lane And Kannu Lal Road, Mithapur, P.S. Jakkanpur, P.O.- G.P.O., Patna District – Patna.

.... Petitioner/s

Versus

1. Mahendra Prasad S/O Late Sohrai Lal Resident Of Sita Saran Lane And Kannu Lal Road, Mithapur, P.S. Jakkanpur, P.O.- G.P.O., Patna District - Patna

2. Arun Prasad Son Of Mahendra Prasad Resident Of Sita Saran Lane And Kannu Lal Road, Mithapur, P.S. Jakkanpur, P.O.- G.P.O., Patna District - Patna

3. Tarun Prasad Son Of Mahendra Prasad Resident Of Sita Saran Lane And Kannu Lal Road, Mithapur, P.S. Jakkanpur, P.O.- G.P.O., Patna District - Patna

4. Uttam Prasad Son Of Mahendra Prasad Resident Of Sita Saran Lane And Kannu Lal Road, Mithapur, P.S. Jakkanpur, P.O.- G.P.O., Patna District - Patna

5. Gautam Aliam Jyoti Son Of Mahendra Prasad Resident Of Sita Saran Lane And Kannu Lal Road, Mithapur, P.S. Jakkanpur, P.O.- G.P.O., Patna District - Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

6 07-12-2015

Heard learned counsel for the petitioners.

Petitioners have challenged order dated 14.06.2012 passed by Sub-Judge, 6th Patna in Title Suit No. 211/1991 wherein petitioners stood as plaintiffs, whereby and whereunder, the learned lower court had allowed the defendants/respondents to amend the WS which had already been allowed vide order dated 07.03.1994 at the cost of Rs.100/-, further inflicting cost of Rs. 2500/- .

In order to challenge the order impugned, it has been

submitted that had there been amendment at a proper time in pursuance of order dated 07.03.1994, the plaintiffs would have had an opportunity to examine the witnesses including he himself to demolish the plea of the defendants who are none else but his own brother and further, should have properly answered the theme of earlier partition so disclosed by the defendants.

It has also been submitted that altogether 48 witnesses have already been examined on behalf of respective parties. So far status of witnesses examined on behalf of plaintiffs is concerned, some had died and some are away and on account thereof, their presence cannot be procured. It has also been submitted that the aforesaid amendment has purposely been left out at a proper juncture and been revived after a long gap of 16 years which should not be allowed.

Gone through the order impugned. The order impugned clearly suggests incorporation of the amendment without having any liberty granted to the either of the parties to adduce evidence on that very score. It is well known that the plea without having been properly substantiated, will not be taken into account. As such, petitioners have got nothing to apprehend.

With the aforesaid observation, the instant petition is disposed of.

(Aditya Kumar Trivedi, J)

perwez

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