

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1453 of 2016**

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Ghanshyam Prasad

.... Appellant/s

Versus

Mostt. Maheshwari Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Gopal Tiwari

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 21-12-2016

Heard the learned counsel for the petitioner.

Perused the impugned order dated 01.09.2016 passed by Sub Judge XI, Muzaffarpur in Title Suit No.479 of 2011 whereby the learned Court below has only allowed the amendment application.

As stated by the learned counsel for the petitioner, the evidence of the P.W.7 was being recorded on the date of the order. From perusal of the amendment application, which is Annexure 5, it appears that all the amendments sought for by the plaintiffs-respondents are in the nature of correction only. Moreover, since the evidence of the defendant-petitioner has not yet started, he will have an opportunity to rebut the case of the plaintiff and, therefore, no prejudice is caused to the petitioner.

The Hon'ble Supreme Court in the case of **Rajkumar Gurawara vs. S.K.Sarwagi and Company Private Limited and**



Another, (2008) 14 Supreme Court Cases 364 has held that the grant of application for amendment shall be subject to certain conditions, namely, (i) when the nature of it is changed by permitting amendment; (ii) when the amendment would result in introducing new cause of action and intends to prejudice the other party; and (iii) when allowing amendment application defeats the law of limitation. The Hon'ble Supreme Court further held that in case of amendments after the commencement of trial, particularly, after completion of the evidence, the question of prejudice to the opposite party may arise and in such an event, it is incumbent on the part of the court to satisfy the conditions prescribed in the proviso to Order 6 Rule 17 CPC.

In the present case, as stated above, there is no question of prejudice to the defendant-petitioner arises. Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction and accordingly, this Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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