

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2667 of 2016

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Harishchandra Thakur

.... Petitioner/s

Versus

Madan Chaturvedi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey

For the Respondent/s : Mr. Aag8- Gautam Bose

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

3 22-04-2016 Heard learned counsel Mr. Vishwajeet Kumar Mishra

for the petitioner, learned counsel Mr. Patanjali Rishi for

respondent nos.1 to 3 and learned counsel Mr. Rohit Mishra,

A.A.G.8 on behalf of the respondent nos.4 and 5.

By the impugned order dated 11.12.2015 the learned
Munsif, Narkatiaganj rejected the amendment application filed by
the plaintiff in Title Suit No.187 of 2002.

It may be mentioned here that it is admitted fact that till
the date of the impugned order none of the parties had started
examining witnesses and only issues had been framed. From
perusal of the amendment application, which is Annexure-3, it
appears that the amendment sought for is the correction of area
and a relief against the State of Bihar claiming damage.

It appears that the suit has been filed on 30.06.2002 prior
to coming into force of CPC (Amendment) Act 22 of 2002 which

came into force from 1st July, 2002. Therefore, the proviso to Order 6 Rule 17 CPC is not applicable in the instant case and moreover the amendment has been refused at the pre-trial stage without considering as to whether it is necessary for just decision of the controversies between the parties or not.

In view of the above facts and circumstances of the case it appears that the court below has passed the order in the manner not permitted by law and thereby occasioned failure of justice, as such, this writ application is allowed, impugned order dated 11.12.2015 passed by Munsif, Narkatiaganj in Title Suit No.187 of 2002 is set aside. The plaintiff-petitioner's application for amendment under Order 6 Rule 17 CPC is thus allowed.

It appears that interlocutory application has been filed being I.A. No.2152 of 2016 by the petitioner informing the Court that after the rejection of amendment application the evidences of the plaintiff were closed by order dated 04.02.2016. Since the amendment application has been allowed, the said order is set aside and the plaintiff-petitioner is directed to produce his evidence expeditiously so as to conclude the matter within a reasonable period.

Harish/-

(Mungeshwar Sahoo, J)

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