

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7819 of 2013**

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1. Bishnu Kumar Raut Son Of Dhrub Raut Alias Dhrub Narayan Raut.  
 2. Bidesh Kumar Choudhary Son Of Late Ishwar Prasad Choudhary Alias Ishwar Choudhary.  
 Both Resident Of Mohalla- Bara Bazar, Madhubani, P.O., P.S. And District- Madhubani.  
 3. Guneshwar Jha Son Of Late Parmanand Jha Resident Of Village And P.O.- Jitwarpur, P.S.- Rahika, District- Madhubani.

.... .... Petitioner/s

Versus

1. Shiv Shankar Lal Das Son Of Late Baidyanath Das Resident Of Village And P.O.- Jitwarpur, P.S.- Rahika, District- Madhubani  
 2. Sushil Kumar Sahu Son Of Mahavir Sahu Resident Of Mohalla- Bara Bazar, Madhubani, P.O., P.S. And District- Madhubani, At Present Residing At Village- Kako, P.O. And P.S.- Bhairab Sthan, District- Madhubani  
 3. Shravan Kumar Sahu Son Of Mahavir Sahu Resident Of Mohalla- Bara Bazar, Madhubani, P.O., P.S. And District- Madhubani, At Present Residing At Village- Kako, P.O. And P.S.- Bhairab Sthan, District- Madhubani  
 4. Rajendra Kumar Sahu Son Of Mahavir Sahu Resident Of Mohalla- Bara Bazar, Madhubani, P.O., P.S. And District- Madhubani, At Present Residing At Village- Kako, P.O. And P.S.- Bhairab Sthan, District- Madhubani  
 5. Shatrughan Sahu Son Of Late Shiv Kumar Sahu Resident Of Mohalla- Bara Bazar, Madhubani, P.O., P.S. And District- Madhubani, At Present Residing At Mohalla- Tilak Chowk, P.O., P.S. And District- Madhubani  
 6. Bharat Sahu Son Of Late Shiv Kumar Sahu Resident Of Mohalla- Bara Bazar, Madhubani, P.O., P.S. And District- Madhubani, At Present Residing At Mohalla- Gadiyani, P.O., P.S. And District- Madhubani  
 7. Vinod Kumar Lal Das Son Of Late Baidyanath Das Resident Of Village And P.O.- Jitwarpur, P.S.- Rahika, District- Madhubani  
 8. Kaushalya Devi Daughter Of Late Baidyanath Das And Wife Of Sri Krishna Kumar Kashyam Shohri, Resident Of Village And P.O.- Barhaita, P.S.- Laheriasarai, District- Darbhanga  
 9. Meena Devi Daughter Of Late Baidyanath Das And Wife Of Sri Satya Narayan Lal Das Resident Of Village And P.O.- Bhour, Tola- Rajgram, P.S.- Pandaul, District- Madhubani

.... .... Respondent/s

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**Appearance:**

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI**  
**ORAL ORDER**

3      26-04-2016

Heard learned counsel for the petitioner as well as

learned counsel for the respondents. Gone through the order

impugned.

At an earlier stage Title Suit No.61 of 1989 was sailing at the end of the plaintiff/respondent which, subsequently been found defective one and for that, an amendment was sought for which was rejected and then thereafter, in terms of Order XXIII(1)(3) of the CPC respondent plaintiff had prayed for withdrawal of aforesaid suit which the court concerned allowed. Subsequently thereof, by having proper framing of the suit, Title Suit No.170 of 2009 has been filed.

Petitioner who happens to be defendant have resisted admission of Title Suit No.170 of 2009 on the ground that deficit court fee was paid after admission as well as the learned lower court was not acceding with the issues having tendered at their end.

Both these two issues have got no relevancy with regard to maintainability of the suit because of the fact that it happens to be within the exclusive domain of the court as well as plaintiff so far court fee matter is concerned. Moreover, the deficit court fee had already been paid. With regard to issue, it is evident that court even before pronouncement of judgment is quite competent to amend the issue so framed. Petitioner /defendant is at liberty to draw attention of the court on that very score which, the learned lower court will see whether the issue so flashed by the defendant are relevant for just decision of the case or not.

With the aforesaid observation, instant petition is  
disposed of.

**(Aditya Kumar Trivedi, J)**

