

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9543 of 2014

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Shiv Chandra Singh Son of Late Sri Paramhans Singh @ Prabhansh Singh resident
of Village - Thegadiah, Police Station - Karantaha, District - Vaishali.

.... Petitioner/s

Versus

Rameshwar Singh Son of Late Dineshwar Singh Resident of Village - Thegadiah,
Police Station - Karnataha, District - Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Chandra Gandhi

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 20-06-2016

Heard learned counsel for the petitioner.

The defendant in the suit is the petitioner in this application and has approached this Court under Article 227 of the Constitution of India being aggrieved by the order by which the learned court below has allowed the prayer for amendment in the plaint, as made by the plaintiff.

Learned counsel for the petitioner has submitted that the learned court below has passed the cryptic order and has not considered the objections of the defendants against the amendment. It has also been submitted that the new facts have been introduced by the plaintiff by way of amendment and only after the defendants has filed their written statement. However, it could not be definitely pointed out on behalf of the petitioner that the trial in the suit has commenced and the prayer for amendment has been made after that stage.

After considering the submissions and the materials on record, it is manifest that the suit has been filed for partition of the suit property. The defendants appeared and filed their written statement questioning the case as set up by the plaintiff. The plaintiff thereafter has prayed for amendment by introducing certain facts on the assertion that the plaintiff was not aware of those facts and it was only after the statement made in the written statement that the plaintiff inquired into the matter and got the knowledge of the facts.

The provision for amendment as contained in Order 6 Rule 17 C.P.C. envisages that all such amendment which are necessary for determination of the real dispute between the parties shall be allowed. This Court does not find that any prejudice will be caused to the defendants if the facts allowed to be incorporated in the plaint at the instance of the plaintiff is also investigated and determined in accordance with law. This Court, therefore, is not inclined to interfere with the impugned order in the jurisdiction under Article 227 of the Constitution of India.

The application is, accordingly, dismissed.

Devendra/-

(V. Nath, J)

AFR/NAFR	
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