

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8517 of 2014

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1. Loha Singh Son of Late Yadunath Singh
2. Laljee Singh Son of Late Yadunath Singh
3. Shyam Deo Singh Son of Late Yadunath Singh
4. Most Shanti Devi W/O Late Yadunath Singh All R/o Village - Chatki Sarimpur,
P.O. + P.S. Buxar (Town), Distt. - Buxar

.... Petitioners.

Versus

1. The State of Bihar through Collector, Buxar
2. Bhagirathi Singh Son of Late Vishwanath Singh
3. Surendra Singh Son of Late Vishwanath Singh
4. Surendra Singh Son of Late Vishwanath Singh
5. Ayodhya Singh Son of Late Raghunath Singh
6. Jhunnu Singh Son of Late Raghunath Singh
7. Lalu Singh Son of Chunnu Singh
8. Narayan Singh Son of Late Sarju Singh
9. Jagnarayan Singh Son of Late Sarju Singh through Guardian Narayan Singh
10. Dharmendra Singh Son of Late Sarju Singh through Guardian Narayan Singh
11. Parsuram Singh Son of late Ram Nath Singh All R/o Chatki Sarimpur, P.O. +
P.S. Buxar (Town), Distt. - Buxar

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sudhir Kumar Singh

For the Respondent/s : Mr. GA4- ASHOK PRIYADARSHI

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 09-05-2016

V.Nath, J.

Heard the learned counsel for the petitioner.

The learned counsel for the State-respondent is
present.

Calling in question the legal sustainability of the
impugned order by which the amendment of plaint as prayed by the
plaintiff has been refused, the present application under Article 227 of
the Constitution of India has been filed.

The suit has been filed admittedly for partition in the year 2010 and the fact is also not in dispute that the plaintiff-petitioners have adduced their evidence and after completion of their evidence the same has been closed. At this stage the plaintiff-petitioners filed the petition for amendment in the plaint.

After hearing the parties, the learned court below has dismissed the prayer for amendment holding that the nature of the amendment is such that it would change the nature of the suit and further also taking into notice that the evidence of the plaintiffs has been closed after completion and the evidence of the defendants has been going on.

From the perusal of the records including the petition for amendment (Annexure-3) it does not appear that the plaintiffs have come out with cogent reasons establishing their due diligence in not seeking the amendment at the earlier stages of the suit and a general plea of mistake of the draftsman has only been raised. In view of the finding by the learned court below that the nature of the amendment is such as it would change the nature of the suit and further that it has been filed at the stage after the closure of the evidence of the plaintiffs, this Court does not find any reason to interfere in the impugned order in exercise of jurisdiction under Article 227 of the Constitution of India.

The application is, accordingly, dismissed.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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