

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10073 of 2014

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1. Vijay Kumar Verma S/o Ramjee Prasad resident of village AND P.O. Porha, P.S. Manpur, District - Nalanda
2. Ganesh Prasad S/o Late Ramdeo Rai @ Deo Rai
3. Brijnandan Prasad Yadav
4. Sri Nandan Prasad S/o Late Ram Bali Rai All residents of village - Elahibag Akal Tola, P.O. Bairia, P.S. Gopalpur, District - Patna

.... Petitioners.

Versus

1. Ramjiwan Rai S/o Late Chhatar Rai
2. Brijnandan Rai
3. Ramanand Rai
4. Ram Swarath Rai
5. Ram Sewak Rai S/o Ramjiwan Rai All residents of village - Elahibag Akal Tola, P.O. Bairia, P.S. Gopalpur, District - Patna
6. Jogindar Rai
7. Baijnath Rai
8. Hari Nath Rai
9. Kedar Rai
10. Jai Rai S/o Late Jangi Rai
11. Ramji Rai S/o Chhatar Rai All residents of village - Elahibag Akal Tola, P.O. Bairia, P.S. Gopalpur, District - Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad Singh, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

2 21-06-2016

Heard Mr. R.K.P.Singh, learned counsel

appearing for the petitioners.

By the impugned order, the learned court below has allowed the prayer for amendment in the plaint. During the course of submission the learned counsel for the petitioners has accepted that the trial had not commenced on that date when the amendment was sought for.

From the perusal of the materials on record it also transpires that the plaintiff prayed for amendment seeking to incorporate and introduce such facts which came to light during the course of hearing of the injunction matter. The learned court below by the impugned order has allowed the prayer for amendment.

The learned counsel for the petitioners has submitted that the learned court below has not assigned any reason for allowing the prayer for amendment. No other submission has been made on behalf of the petitioners.

After considering the submissions and the materials on record, it is evident that the trial had not commenced at the time when the court allowed the prayer for amendment. It is also obvious that the questions or issues which may arise after the amendment shall be determined by the court after considering the evidence to be led by both the parties including the petitioners. This Court has not been persuaded to hold that the defendant-petitioners would suffer any prejudice if the facts which have been sought to be introduced by the plaintiff by way of amendment are determined on merits on the basis of evidence on record. This Court, therefore, is not inclined to interfere in the impugned order under Article 227 of the Constitution of India.

The application is, accordingly, dismissed.

The petitioners shall however be at liberty to pray before the court for opportunity to file additional written statement which shall be considered and disposed of by the court in accordance with law.

(V. Nath, J)

Nitesh/-

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