WEB COPY NOT OFFICIAL

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10023 of 2014

==========

Mathura Prasad Chaudhary

.... Petitioner/s

Versus

Ajay Kumar Mandal

.... Respondent/s

==========

Appearance :
For the Petitioner/s : Mr. Jitendra Kumar
For the Respondent/s : Mr.

==========

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 18-01-2016 Heard the learned counsel, Mr. Jitendra Kumar for the petitioner on I.A. No.3881 of 2015. At the time of hearing of this I.A., the learned counsel submitted that the writ application itself may be heard on merit in admission matter. Accordingly, I heard him on merit in admission matter.

By the order dated 11.04.2014, the learned Munsif 1st, Vaishali allowed the amendment application filed by the plaintiff-respondent in Eviction Suit No.3 of 2010.

According to the learned counsel for the petitioner, the order is cryptic and that, no reason has been assigned for allowing the amendment and at the very belated stage i.e. after examination of some of the plaintiff's witnesses, the amendment application was filed but the learned Court below without considering the provision as contained in proviso to Order VI Rule 17 allowed the

amendment application.

Perused the order passed by the Court below and the amendment application filed by the plaintiff-respondent which has been annexed as Annexure 3 to this writ application. Admittedly, the suit was filed for eviction of the defendant-petitioner under the Bihar Building (Lease, Rent & Eviction) Control Act, 1982. The defendant's defence is that there is no relationship of landlord and tenant between the parties and in fact, the suit land has been recorded in the name of Gairmajarua Khas Mahal Kaisher-e-Hind and the defendant is ready to pay rent if the rent is fixed by the Circle Officer.

From perusal of the amendment application, it appears that the plaintiff filed aforesaid amendment application on the ground that there is some typing mistake. The proposed amendment has also been narrated in the last portion of the application. From perusal of the same, it appears that in fact, these amendments sought for, are only typing mistakes. Further, in the present case, only evidences of plaintiff are being examined. The evidence of the defendant has not yet started.

In such view of the matter, when the Court below has only allowed the amendment application, on the ground that it is

cryptic or that a new fact is now being introduced, cannot be the ground for interference in the impugned order.

Accordingly, the writ application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

U		T	