

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11889 of 2014

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Lalan Sah, son of Late Chandradeo Sah, Resident of Village- Mauja Bishanpura,
P.O.- Sidhwalia, P.S.- Sidhwalia, District- Gopalganj.

.... Petitioner/s

Versus

1. Rameshwar Prasad, son of Late Lakhichand Prasad Resident of Village- Bishunpur, P.O. and P.S. Sidhwalia, District- Gopalganj. At present Raxaul, Naya Road, Ward No. 11, Near T.P., P.O. Raxaul, P.S. RAXaul, Distt- East Champaran.
2. Pintu Prasad.
3. Ram Pukar Prasad.
4. Arun Kumar.
5. Daulat Kumar All are sons of Rameshwar Prasad Resident of Village- Mauja Bishunpura, P.O. - Sidhwalia, P.S. Sidhwalia, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pravin Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 11-08-2016

Heard learned counsel for the petitioner.

The defendant in the suit is the petitioner in this application and is aggrieved by the impugned order by which the learned court below has allowed the prayer for amendment in the plaint.

It has been submitted by learned counsel for the petitioner that the plaintiff has earlier also prayed for amendment in

the plaint by filing petition but the same had been rejected. It has been further submitted that the learned court below has allowed the present petition wherein the plaintiff made the same prayer for amendment. It is, however, accepted by the learned counsel for the petitioner that the trial of the suit has not commenced.

After considering the submissions and the perusal of the impugned order, it transpires that the plaintiff has prayed for amendment in the plaint stating that the errors had occurred in the plaint due to mistake of typist while describing the plot numbers, khata numbers and area of the suit land. The learned court below has allowed the prayer for amendment after imposing cost upon the plaintiff. In view of the accepted position that the trial has not commenced in the suit, this Court does not find it a fit case to invoke the jurisdiction under Article 227 of the Constitution of India for interdicting the prayer.

However, the petitioner shall be at liberty to pray for filing additional written statement in view of the amendment and if such prayer is made, the same shall be considered by the learned court below in accordance with law.

The application is, accordingly dismissed with aforesaid observation.

Devendra/-

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(V. Nath, J)