

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11444 of 2014

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1. Ram Bilash Rajbanshi,
 2. Arvind Rajbanshi, Both son of Late Ramanand Rajbanshi
 3. Rambalak Rajbanshi Son of Baleshwar Rajbanshi
 4. Manish Kumar Son of Late Upendra Rajbanshi All Residents of Village- Chanda Bujurg, P.S. Wazirganj, District- Gaya.

.... Petitioner/s

Versus

1. Ramadhar Prasad,
2. Ramabilash Prasad, Both sons of Late Sukhdeo Prasad, Resident of Village Budhol, P.S. Wazirganj, District- Gaya
3. Brajesh Rajbanshi,
4. Arjun Rajbanshi,
5. Kapil Rajbanshi, All sons of Late Baleshwar Rajbanshi,
6. Usha Devi D/o Late Baleshwar Rajbanshi, All sons and daughter resident of Village Chanda Bujurg, P.S. Wazirganj, District- Gaya
7. Geeta Devi Wife of Late Upendra Rajbanshi
8. Manisha Kumari,
9. Sunitea Kumari,
10. Anurekha Kumari,
11. Sonan Kumari, All daughter of Late Upendra Rajbanshi All Resident of Village- Chanda Bujurg, P.S. Wazirganj, District- Gaya
12. Pyush Yadav,
13. Umesh Yadav,
14. Sukhdeo Yadav, All son of Late Chetu Yadav, All resident of vill- Dedaur, P.S.- Wazirganj, District- Gaya.
15. Ram Anugah Prasad,
16. Dinesh Prasad, Both son of Ram Balak Mahto, Residents of Village Budhol, P.S. Wazirganj, District- Gaya.
17. Kishori Singh,
18. Arun Singh, Both Sons of Late Sita Singh, Resident of Village Morcha, P.S. Fatehpur, District- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sangeet Deokuliar, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 04-08-2016

Heard learned counsel for the petitioners.

The defendants are the petitioners in this application and have assailed the impugned order by which the learned court below has allowed the prayer of the plaintiff for amendment in the plaint.

The suit has been filed by the plaintiffs for declaration of title and permanent injunction. Later on, the plaintiffs has prayed for amendment in the plaint which also included the amendment in the relief portion for incorporating the relief for recovery of possession over the suit property. By the impugned order, the learned court below has allowed the prayer for amendment and has further granted the liberty to the defendants to file additional written statement.

Learned counsel for the petitioners has submitted that the learned court below has not properly exercised its jurisdiction and has wrongly allowed the prayer for amendment in the plaint. It has also been submitted that the learned court below has failed to consider that the prayer has not been made under Order 1 Rule 10 (2) C.P.C. by the plaintiffs and the prayer for amendment instead has been made under Order 6 Rule 17 C.P.C. Emphasizing material irregularity the prayer, therefore, is made on behalf of the petitioners to quash the impugned

order.

After considering the submissions and the perusal of the impugned order as well as the materials on record, it is manifest that the learned court below has considered in detail the amendment sought for by the plaintiffs and the submissions/objection in that regard as made. The liberty to the defendants has also been granted to file additional written statement if so advised. These facts lead to the conclusion that the impugned order will not cause material prejudice to the defendants. In any view of the matter, the jurisdiction of the court to allow the amendment in the plaint is very clear and the court is always within jurisdiction to allow all such amendments which are required for complete and final adjudication or the issues arising between the parties unless otherwise prohibited in law. This Court is thus not inclined to interfere in the impugned order.

The present application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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