

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.98 of 2016**

=====

Sushila Yadav

.... Appellant/s

Versus

Smt. Poonam Yadav & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Kumar Kaushlendra

For the Respondent/s : Mr.

=====

**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 03-08-2016 Heard the learned counsel, Mr. Ajit Narayan Singh, for the petitioner and the learned counsel, Mr. Shyam Nandan, for the plaintiff respondent.

By the impugned order dated 12.02.2016 passed by the learned Sub Judge IV, Patna in Title Suit No.118 of 2013, the learned Court below has allowed the amendment application.

Admitted fact is that the suit is at the very initial stage, i.e., still today no issues have been framed. Amendment application was filed before the Court below by the plaintiff respondent praying for declaration that the sale deed of the year 2006 is void, illegal, without consideration and is not on the plaintiff alleging that she had no knowledge about this sale deed earlier. When the defendant No.1 and 7 filed the written statement disclosing the sale deed in the year 2014, it is necessitated to file the amendment application. The rejoinder was filed denying the allegation regarding knowledge. According to the petitioner, the plaintiff

had knowledge about the sale deed.

From perusal of the amendment application, it appears that specifically it is pleaded by the plaintiff that still filing the written statement, the plaintiff came to know about the sale deed of the year 2006.

So far the submission of the learned counsel for the petitioner that the plaintiff had the knowledge is concerned, this finding cannot be recorded at this stage in view of the pleading of the plaintiff to the effect that one filing written statement she came to know about the sale deed. This matter can only be decided after evidence.

The Hon'ble Supreme Court in the case of *Raghu Tilak D. John Vs. S. Raippan and Ors, (2001) 2 SCC 472* has held that **'where it is arguable that relief sought by way of amendment would be barred by law of limitation, the amendment are still be allowed and the disputed matter should be made a subject matter of issue.'**

In such view of the matter, I do not find any illegality or impropriety in the order passed by the Court below. Thus, this Civil Misc. application is dismissed.

Sanjeev/-

(Mungeshwar Sahoo, J)

U		T	
---	--	---	--