

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13617 of 2014

=====

1. Chandrika Prasad S/o Late Jorabar Prasad Resident of village- Dhanawan, P.O
AND P.S. Parwalpur, Distt- Nalanda (Bihar)

.... Petitioner/s

Versus

1. Brijnandan Prasad S/o Late Jorabar Prasad
2. Niraj Kumar
3. Nivesh Kumar Both Sons of Brijnandan Prasad All are residents of village-
Nalanda (Bihar) Presently residing at Mohalla- Shivpuri, Near Radhakrishna
Mandir, P.S.- Shastri Nagar, Town AND District- Patna.
4. Shiv Kumari Devi W/o Brijnandan Prasad Resident of village- Dhanawan, P.O
AND P.S. Parwalpur, Distt- Nalanda (Bihar)
5. Ranjeet Kumar
6. Sanjeet Kumar Both sons of Chandrika Prasad Resident of village- Dhanawan,
P.O AND P.S. Parwalpur, Distt- Nalanda (Bihar)

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Deo Raj Kumar Prasad, Adv
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 26-09-2016

Heard learned counsel for the petitioner.

By the impugned order the learned court below has
directed for preparation of fresh preliminary decree in view of the
amendment of plaint already allowed by earlier order. The learned
counsel for the petitioner has accepted the earlier order for



amendment of plaint which was passed after contest on 24.09.2013 whereby the prayer for amendment in the plaint as made by the plaintiff has been allowed. It has also been accepted on behalf of the petitioner that the said order has not been challenged by the petitioner in any higher forum as such the said order allowing the amendment has attained finality between the parties. By the impugned order, the learned court below has directed for preparation of fresh preliminary decree in view of the amendment made in the plaint vide order dated 24.09.2013.

The learned counsel for the petitioner in support of his submissions while assailing the impugned order has relied upon a decision by the Apex Court in the case of **Niyamat Ali Molla vs Sonargon Housing Co-Operative** , AIR 2008 SC 225. However, the said decision by the Apex Court has been passed in different set of facts where the issue of allowing amendment in the plaint after passing of the judgment in appeal before the Apex court was under consideration. In the facts of the present case, the amendment had already been allowed in plaint even though after passing of the judgment but the said order has not been challenged by the petitioner and as such the same has become final between the parties. In view of this fact, this Court does not find it a fit case to interfere with the impugned order invoking its jurisdiction under



Article 227 of the Constitution of India.

The application is, accordingly, dismissed.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.12.16
Transmission Date	N.A.

