

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6094 of 2014

In
C.R. 259 of 2008

Nemdhari Rai

.... Petitioner/s

Versus

Anjani Nandan Shahi & Ors

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma

For the Respondent/s : Mr. Rakesh Kumar Tiwary

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

- 5 12-02-2016 **1.** Heard the learned counsel, Mr. Naresh Chandra Verma, on behalf of the petitioner and the learned counsel, Mr. Chandrakant, appearing on behalf of the respondent, learned counsel, Mr. Dhanendra Chaubey on behalf of respondent No.2 and 3 and learned counsel, Mr. Rakesh Kumar Tiwary, on behalf of the respondent No.5.
- 2.** By the impugned order dated 13.12.2007, the learned Sub Judge VIIth, Hajipur in Title Suit No.13 of 2002 rejected the amendment application filed by the plaintiff petitioner for amendment of the plaint.
- 3.** From perusal of the impugned order, it appears that the Court below considered that earlier the plaintiff pleaded that the lands were taken in settlement in the name of the plaintiff and



defendant No.4. The defendant No.4 also filed written statement supporting this case. Thereafter, issues were framed and evidences were adduced. The plaintiff evidence were closed and thereafter the amendment application was filed by the plaintiff praying for amendment of the pleading to the effect that the suit lands were only settled in the name of the plaintiff and the defendant No.4 being the Karpardar of the plaintiff got himself added as defendant No.4 and filed the plaint on behalf of the plaintiff making the statement that it was settled in the name of the plaintiff and the defendant No.1. The Court below considering the evidences adduced by the plaintiff submitted that since this is admission of the plaintiff and in support of the same, witnesses have also been examined, therefore, the plaintiff now at this stage cannot be allowed to withdraw the same.

4. In view of the above finding recorded by the Court below that now by the amendment entirely, a new case sought to be pleaded by the plaintiff which will amount to de novo trial and further that whatever evidences has been adduced will be of no effect.

5. Therefore, if the amendment is allowed then naturally, it will prejudice the defendant No.4. Thus, the Court below has

rightly rejected the amendment application.

6. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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