

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8975 of 2015

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Satendra Yadav & Ors

.... Petitioner/s

Versus

Baijnath Prasad & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhishek

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 16-03-2016

Heard learned counsel Mr. Abhishek for the petitioners.

The plaintiffs-respondents filed the suit for declaration of title and confirmation of possession. The suit was decreed. Against the decree defendants-petitioners filed appeal before the lower appellate court. Before the lower appellate court the plaintiffs-respondents in the appeal filed amendment application alleging that they have been dispossessed by the defendants during the pendency of the appeal and, therefore, prayed for amendment of the relief seeking for recovery of possession of the suit property. The learned Additional District Judge-IV, Aurangabad after considering the submissions of both the parties and the facts of the case and the discretionary jurisdiction regarding amendment by terms of order dated 20.04.2015 passed in Title Appeal No.08 of 2009/78 of 2009 allowed the said prayer for recovery of possession on the ground that the amendment sought for is based

on subsequent event.

It is settled principles of law that subsequent event must be taken note of the Court where the lis is pending. So far the merit of the amendment is concerned, the same cannot be considered while considering the application under Order VI Rule 17 CPC.

In view of the above proposition of law I do not find any reason to interfere with the impugned order in supervisory jurisdiction under Article 227 of the Constitution of India. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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