

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9424 of 2015

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Bishnu Kumar Raut & Ors

.... Petitioner/s

Versus

Shiv Shankar Lal Das & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gyanand Roy

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 25-04-2016 Heard the learned counsel, Mr. Gayanand Roy for the
petitioners.

By the order dated 09.04.2015, the learned Sub Judge IV, Madhubani has only allowed the pre-trial amendment in Title Suit No.170 of 2009 and at the time of hearing of this writ application, the learned counsel, Mr. Roy for the petitioners submitted about the entire fact leading to filing this present title suit of the year 2009 in merit and submitted that in view of these facts and circumstances of the case, the amendment could not have been allowed by the Court below.

Admittedly, still the plaintiff's witnesses are being examined. The defendant is yet to begin his case.

The Hon'ble Supreme Court in the case of **Rajesh Kumar Aggarwal and others vs. K.K.Modi and others, (2006) 4 Supreme Court Cases 385** has held that the object of Order VI



Rule 17 is that the Court should try the merits of the case that come before them and should consequently allow all amendments that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the other side. While considering whether an application for amendment should or should not be allowed, the Court should not go into the correctness or falsity of the case in the amendment. Likewise, it should not record a finding on the merit of the amendment and the merits of the amendment sought to be incorporated by way of amendment are not to be judged at the stage of allowing the procedure of amendment. In the present case, therefore, the merit of the amendment sought for cannot be gone into which is a matter that can be finally decided by the Court below.

In view of the above settled principles of law, I do not find any merit in the writ application and thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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