

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4870 of 2011

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Kishun Rai son of Lakhan Rai resident of Dulma P.O. Dulma, P.S.
Madhuban Dist. East Champaran.

.... Petitioner/s

Versus

1. Bibha Kuar wife of Late Sukdeo Singh
 2. Raju Kumar Son of late Sukdeo Singh
- All are resident of Dulma, P.O. Dulma, P.S. Madhuban, Dist. East
Champaran

.... Defendants/ Respondents

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar Tondon

For the Respondent/s : Mr. Binod Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

7 18-01-2016

Heard the counsel for the petitioner and Mr. Singh

for the defendant-respondent.

The petitioner filed Title Suit no. 83/1994 for declaration that the Mahadnama dated 07.07.1989 and 22. 08.1986 are void and inoperative. The evidence on behalf of both the parties were adduced. The matter was posted for argument. At this stage, the petitioner filed an application seeking formal amendment (Annexure-2) in few paragraphs of the plaint. A rejoinder was filed thereto.

The trial Court under the impugned order dated 25.09.2008 rejected the said application observing that such application was filed at a belated stage and the amendment sought for shall change the nature of the suit.

Mr. Tondon has submitted with reference to the amendment(s) sought by the plaintiff that they are formal in

nature and will not change the nature. In particular, he has drawn attention of the Court to the amendment sought for in paragraph nos. -2, 3 and 5 in order to demonstrate the same.

I have heard the parties.

On going through the amendment petition, it appears to this Court they are formal in nature. Typing mistakes have been sought to be corrected. The trial Court erred in holding that by such amendment, the nature of the suit shall change. The provisions under Order 6 Rule 17 have been made with the purpose of minimizing the litigation between the parties.

It has been submitted by Mr. Tondon that if the amendments are allowed the plaintiff shall not seek re-examination of any witness. If that be so, in my view, the writ application merits to be allowed. The order dated 25.09.2008 passed by the trial Court in Title Suit no. 83 of 1994 is set aside.

The suit is pending on the file of the learned trial court since 1994. Let the trial Court endeavour to dispose of the suit as soon as possible. Both the parties have undertaken before me to co-operate in early disposal of the suit. The petitioner shall produce a copy of this order before the trial Court within 03 weeks enabling the trial Court to dispose of the suit expeditiously.

(Kishore Kumar Mandal, J)

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