

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4227 of 2013

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Mahesh Prasad Son of Basudeo Prasad Resident of Village Malwan, P.O.
Awadachak, Police Station Sara (Old Asthawa), District Nalanda

.... Petitioner/s

Versus

1. Arbind Prasad Son Of Basudeo Prasad Resident Of Village Malwan,
P.O. Awadachak, Police Station Ara, District Nalanda.
2. Sanjay Prasad.
3. Ram Pravesh Prasad.
4. Ram Bachchan Prasad.
5. Anand Kumar all Sons Of Basudeo Prasad.
6. Amirka Devi Wife Of Basudeo Prasad all are Resident Of Village
Malwan, P.O. Awadachak, Police Station Sara (Old Asthana) District
Nalanda.
7. Anjeera Devi Wife Of Sachidanand Prasad Resident Of Village Barhog,
P.O. Barhog, Police Station Bind, District Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Waliur Rahman

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

6 08-02-2016

Heard the learned counsel for the parties.

The assail in the present application under Article
227 of the Constitution of India is to the order by which the
learned court below has rejected the prayer of the defendant for
amendment in the written statement to the extent of amendment
nos. 2 and 3 as mentioned in the petition for amendment

(Annexure-1) and also in the impugned order.

From the perusal of the impugned order, it appears that the learned court below has held that the amendment nos. 2 and 3, as prayed by the defendant is, in fact, in the nature of resiling from the earlier admitted facts by way of deletion of the same from the written statement and also for addition of the statements inconsistent with those earlier statements.

The learned counsel for the defendant-petitioner as well as the plaintiff-respondent have jointly prayed that this application be disposed of in the light of the decision by a three Judge Bench of the Apex Court in the case of **Ram Niranjana Kajaria Vs. Jugal Kishore Kajaria, 2015 (4) PLJR (S.C) 290**. The learned counsel for the plaintiff-respondent has also agreed to the proposition that the defendant may be given liberty to file appropriate petition seeking addition of statement in the written statement in order to explain away the previous admission.

Their lordships in the case of **Ram Niranjana Kajaria** (supra) has laid down as follows:-

“.....In the above circumstances, we do not intend to make the suit filed in the year 2005 otherwise infructuous. The application for amendment withdrawing the admissions made in the written statement on relinquishment of



the claim to the suit property by Defendant Nos. 5 and 12 is rejected. However, we, in the facts and circumstances of the case, are of the view that Defendant nos. 5 and 12 should be given an opportunity to explain/clarify the admissions made in the written statement. Accordingly, Defendant Nos. 5 and 12 are permitted to file an application within one month from today limiting their prayer only to the extent of explaining/clarifying the disputed admissions in the written statement which will be considered on its merits and in the light of the observations made hereinabove....”

In view of the aforesaid decision, this writ application is dismissed as the learned court below has rightly rejected the prayer for amendment as made on behalf of the defendant for deleting the admitted facts. However, the defendant shall be at liberty to file appropriate application within one month from the date of receipt/production of this order in the learned court below limiting their prayer for amendment only to the extent of explaining/clarifying the disputed admissions in the written statement. If such a petition is filed, the same shall be considered by the learned court below on its own merits and in the light of the observations made by the Apex Court in the case of **Ram Niranjana Kajaria** (supra).

In result, the writ application is dismissed with the
aforesaid liberty and observations.

(V. Nath, J)

Devendra/-

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