

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13639 of 2013

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1. Mahendra Prasad Singh Son Of Late Kailash Singh Resident Of Village
And P.O. Kalaunijar, P.S. Chakmeshi, District- Samastipur.

.... Petitioner/s

Versus

1. Chitranjan Rai Son Of Late Pritam Rai R/O Village And Po Kaluanjar,
Ps.- Chakmehsi, Distt. Samastipur
2. Naresh Rai Son Of Late Raj Kumar Rai R/O Village And Po Kaluanjar,
Ps.- Chakmehsi, Distt. Samastipur
3. Upendra Rai Son Of Late Raj Kumar Rai R/O Village And Po Kaluanjar,
Ps.- Chakmehsi, Distt. Samastipur
4. Suresh Rai Son Of Late Raj Kumar Rai R/O Village And Po Kaluanjar,
Ps.- Chakmehsi, Distt. Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiva Shankar Prasad Singh, Advocate

For the Respondent/s : Mr. Pramod Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 03-10-2016 Heard learned counsel for the petitioner as well as

learned counsel for the respondents.

2. In para-6 of the plaint, plaintiff/respondent No.1
had shown date of dispossession on 18.02.2003, however, in para-
11 of the plaint, the same has been incorporated as 18.03.2003
whereupon, during course of pendency of appeal, Respondent
No.1/Plaintiff had prayed for correction of the date by way of
amendment which had been allowed by the learned Adhoc
Additional District Judge, 2nd Samastipur in Title Appeal No.
58/2011/10/2013 whereupon the defendant/appellant/petitioner
preferred instant petition.

3. It has been submitted on behalf of the petitioner



that amendment of plaint should not be allowed in casual manner. The restriction in terms of amended CPC is there and in the aforesaid background the Hon'ble Apex Court, in ***Mashyak Grihnirman Sahakari Sanstha Maryadit v. Usman Habib Dhuka*** as reported ***in (2013) 2 PLJR 356 (SC)*** has held that amendment should not be allowed when the same has been sought for at a belated stage.

4. Gone through the citation having been placed on behalf of petitioner and from para-6 thereof, it is evident that plaintiff had prayed for substantial piece of amendment in the recital of the plaint with regard thereto, the Hon'ble Court had formed its opinion in the background of undisputed fact having so enumerated therein. Furthermore, by such amendment having been allowed at the end of High Court under Article 227 of the Constitution the original colour of the plaint has been found diluted and in the aforesaid background it has been observed:-

“The High Court has not considered these undisputed facts and passed the impugned order on the general principles of amendment as contained in Order VI Rule 17 of the Code of Civil Procedure. Hence we do not find any ground for allowing the amendment sought for by the plaintiffs which was not only a belated one but was clearly an after-thought for the obvious purpose to avert the inevitable



consequence. The High Court has committed serious error of law in setting aside the order passed by the trial court whereby the amendment sought for was dismissed.”

5. In the present case, only the date has been sought for to be corrected and on account thereof, neither nature of the suit has been allowed to be changed nor has the aforesaid theme been brought up by way of surprise.

6. That being so, the order impugned needs no interference. Consequent thereupon, the instant petition is found to be devoid of merit and is, accordingly, rejected.

(Aditya Kumar Trivedi, J)

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