

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16689 of 2015

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1. Surya Nath Singh son of Late Jairam Singh resident of Village - Machharhatta, P.O. - Sahbajpur, Police Station - Mohania, District - Kaimur (Bhabhua).

.... Petitioner/s

Versus

1. Srikrishna Pandey son of Ram Nagina Pandey resident of Village - Lahurbari, P.O. - Mujan, Police Station - Mohania, District - Kaimur (Bhabhua).
2. Chandrama Singh son of Late Jairam Singh resident of Village - Machharhatta, P.O. - Sahbajpur, Police Station - Mohania, District - Kaimur (Bhabhua).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

3 29-08-2016 Heard the learned counsel Mr. Suraj Narayan Yadav, for the petitioner and learned counsel Smt. Asha Verma, for the respondent no.1.

It appears that the notices were issued to the respondents by terms of order dated 22.06.2016. After notice the respondents have appeared.

Perused the impugned order dated 19.08.2015, passed by the Additional District Judge-6, Kaimur (Bhabhua) in Title Appeal No. 17 of 2007 whereby the court below rejected the amendment application filed by the petitioner on the ground that if amendment is allowed, it will change the nature of the suit.

From perusal of the impugned order, it appears that the plaintiff-appellant filed the amendment application before the lower appellate court praying for introducing paragraph 13(a) in the plaint. This amendment sought for is quoted in the impugned order by the court below. It further, appears that earlier the suit was filed praying therein that the defendant be directed to hand over title deed to the plaintiff, after receiving either balance of Rs. 5,000/- or the whole consideration of Rs. 15,000/- of the suit property. By this amendment the plaintiff/petitioner now sought amendment to the effect that as soon as sale deed was registered, title passed to the plaintiff petitioner. In fact, Rs. 10,000/- was paid by the petitioner on 18.6.2000 and on 11.10.2000, the balance consideration of Rs. 5,000/- was tendered. It may be mentioned here, that so far this amendment sought for before the appellate court is concerned, it is entirely a new case which is being sought to be added in the pleading by way of amendment.

In my opinion, therefore, the court below has rightly rejected the amendment application as such, there is neither illegality nor jurisdictional error in the impugned order. Accordingly, this writ application is dismissed.

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(Mungeshwar Sahoo, J)