

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17590 of 2015

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Kamla Devi & Ors

.... Petitioner/s

Versus

Ram Sevak Paswan & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 23-06-2016

Heard learned counsel Mr. Pankaj Kumar Sinha for the
petitioners.

By the order dated 07.09.2009 the learned Subordinate
Judge-VI, Begusarai has allowed the amendment application filed
by the defendants-respondents in Title Suit No.152 of 2001.

Perused the order. It appears that the amendment
application was filed for amendment of the written statement
seeking correction of some typing mistakes. One paragraph was
also sought to be added to the effect that on 01.03.1993 the
plaintiffs forcibly dispossessed.

The learned counsel for the petitioners submitted that
so far the correction part is concerned, he has got no grievance. So
far addition of paragraph bringing fact that on 01.03.1993 the
plaintiffs forcibly dispossessed is concerned, it is false and
malafide. In fact the plaintiffs were in possession of the property

since before and were continuing in possession but the court below without considering this aspect of the matter has allowed the amendment application.

So far the submission of the learned counsel with regard to the question of dispossession is concerned, it relates to the merit of the fact alleged by the defendants and by the plaintiffs. It is settled principles of law that while considering the amendment application the Court is not required to decide the falsity or otherwise i.e. the amendment application on merit. The Hon'ble Supreme Court in the case of **Rajesh Kumar Aggarwal & Ors. Vs. K.K. Modi & Ors., (2006) 4 Supreme Court Cases 385** has held that 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. Admittedly the suit is of the year 2001, therefore, in the present case the proviso to Order 6 Rule 17 CPC is also not applicable.

In my opinion, the court below has rightly exercised the jurisdiction under Order 6 Rule 17 of the Code of Civil Procedure as such it needs no interference in supervisory jurisdiction. Accordingly, this writ application is dismissed.

Harish/-

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(Mungeshwar Sahoo, J)