

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.1403 of 2008

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1. Deo Nandan Rai son of late Dhanai Rai.
 2. Rajendra Rai son of late Ganesh Rai.
 3. Mostt. Lalita Kunwar wife of late Surendra Rai.
 4. Narendra Kumar.
 5. Nagendra Kumar, both minor sons of late Surendra Rai represented through their mother Mostt. Lalita Kunwar. All resident of Jasauli Patti, P.S. Kotwa, Distt. East Champaran.
- Petitioner/s

Versus

1. Jokhan Rai.
2. Hira Lal Rai
3. Moti Lal Rai, all sons of late Harihar Rai all resident of village- Jasauli Patti, P.S. Kotwa, District-East Champaran.
4. Rukha Devi wife of Sayani Rai resident of village Basman, P.O. Basman sarai, P.S. Chhatauni, District-East Champaran.
5. Kunta Devi wife of Shankar Rai resident of village-Maharani Bairaiya, P.O. Mahara, P.S. Pipra, Distirct-East Champaran.
6. Srikanti Devi wife of Ramjanam Rai, resident of village-Jagati, P.O. Jasauli, P.S. Kotwa, District-East Champaran.
7. Malti Devi wife of Lakdeo Rai, resident of village Mangalapur, P.O and P.S. Sangrampur, District-East Champaran.
8. Bhikhari Rai son of late Mushar rai, resident of village Jasauli Patti, P.O Jagirahan Kothi, P.S. Kotwa, District-East Champaran.
9. Raghunath Rai son of Dhanai Rai, resident of village-Jasaulipatti, P.O. Jageeraharan Kothi, P.S. Kotwa, District-East champaran.
10. Shanti Devi wife of Hari Lal Rai, resident of village-Pokhra, P.O-Talwa Pokhar, P.S. Kotwa, District-East Champaran.
11. Suandhi Devi wife of Wokil Rai, resident of village-Bangri Harpur, P.O and P.S. Pipra Kothi, District-East champaran.
12. Dulari Devi wife of Ambika Rai, resident of village-Tikuliya Haraj, P.O and P.S. Chiraiya, District-East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. DHURENDRA KUMAR
For the Respondent/s : Mr. Arun Kumar Lal
Mr. Lakshmi Kant Tiwary

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 29-01-2016

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Heard the learned counsel for the petitioners. Nobody has appeared on behalf of the opposite parties.

The present revision application has been filed against the impugned order by which the learned court below has allowed the prayer for amendment in the written statement.

The learned counsel for the petitioners has submitted that by the proposed amendment, the defendants want to change their earlier stand and such course is not permitted in law. It has also been submitted that the plaintiffs' evidence is going on in the suit and the evidence by the defendants has not yet started. It has also been pointed out that the suit has been filed for partition.

After considering the submissions and the materials on record, it is evident that the learned court below has allowed the prayer for amendment in the written statement. It is well settled by now that the prayer for amendment in the written statement is to be liberally allowed and is not constrained by the conditions as in the case of prayer for amendment in the plaint. It has also been settled by now that the delay is not crucial for allowing the amendment in the written statement and even the previous admissions can be explained

away by way of amendment. In the case of **Ram Niranjana Kajaria Vs. Sheo Prakash Kajaria 2015 (10) SCC 203**, the Apex Court has laid down that the admissions in the written statement can be clarified or explained away way of amendment. It appears from the impugned order that the learned court below has granted liberty to the plaintiff-petitioners to take steps for rebuttal in view of the amendment.

This Court does not find any error of jurisdiction or material irregularity in the impugned order. The revision application is, accordingly dismissed.

(V. Nath, J)

Devendra/-

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