

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12856 of 2015

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Kalawati Devi & Ors

.... Petitioner/s

Versus

American Prasad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Kant

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

4 30-09-2016 Heard learned counsel Mr. Chandra Kant for the

petitioners and learned counsel Mr. Arbind Kumar Singh for the

sole respondent.

2. Perused the impugned order dated 19.05.2015 passed
by Subordinate Judge-I, Siwan in Title Suit No.291 of 1998.

3. It appears that the suit is of the year 1998. The
amendment application which is rejected by the court below by
last part of the order is of the year 1998. In the year 2014 another
amendment application was filed by the plaintiffs-petitioners. In
the same order the court below allowed the amendment
application of the year 2014 and rejected the amendment
application filed in the year 1998 only on the ground that this
application is very old application i.e. dated 15.09.1998. From
perusal of the last part of the impugned order, it appears that no
reason has been assigned. On the ground that the application is
very old application, it cannot be rejected. In my opinion,

therefore, the court below has rejected the application on untenable ground.

4. It is settled principles of law that the reasons should be reflected from the order as to why it is rejected particularly when the court has the jurisdiction to consider the amendment application under Order 6 Rule 17 of the Code of Civil Procedure and while passing the order under Order 6 Rule 17 of the Code of Civil Procedure the court is required to pass a judicial order and not arbitrary.

5. So far the application dated 23.09.2013 is concerned, it is submitted that this application is not an amendment application rather by this application the plaintiffs-petitioners prayed that the amendment application of the year 1998 be disposed of. This application has also been rejected. No reason has been assigned. In other words, it can very well be said that that part of the order is non-speaking order.

6. Thus, this writ application is allowed. The last part of the order rejecting both the applications as stated above is hereby set aside. The matter is remanded to the court concerned. The court concerned shall pass a fresh order as directed above after hearing the parties.

Harish/-

(Mungeshwar Sahoo, J)

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