

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8634 of 2015

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Om Prakash Agrawal & Ors

.... Petitioner/s

Versus

The State of Bihar & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Nath Tiwary

For the Respondent/s : Mr. Uday Shankar Sharan Singh- Gp1

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

4 20-05-2016 Heard the learned counsel, Mr. Amarendra Nath Tiwary, for the petitioners and the learned counsel, Mr. Uday Shankar Sharan Singh, G.P.1, on behalf of the respondents.

It appears that the plaintiff appellant had filed title suit No.199 of 1987 for declaration of title and for declaration that the entry in the record of right in the name of State of Bihar is wrong. The suit was dismissed. Thereafter, the plaintiff has filed the present Title Appeal No.4 of 1992 before the Appellate Court. An amendment application was filed by the appellant seeking further consequential relief for confirmation of possession but the Court below rejected the same on the ground that the relief, if added, will change the nature of the suit.

Since the plaintiff in the original plaint has already claimed the relief for declaration of title and by amendment he is only seeking for further relief for conformation of possession, in my

opinion, the petitioner is not bringing any new fact by way of amendment. The relief claimed by way of amendment appears to be only consequential relief. It is dependent on the grant of relief already claimed. If this amendment is allowed then it will not cause any prejudice to the respondent. Since the amendment sought for is only consequential, there is no question of change of the nature of suit arises. The Court below, therefore, has erroneously rejected the amendment application and thereby has not exercised a jurisdiction vested in it by law.

Accordingly, this writ application is allowed. The impugned order dated 26.03.2015 passed by Adhoc A.D.J.-II, Nawada in Title Appeal No.4 of 1992 is hereby set aside and the plaintiff appellant petitioner's amendment application is allowed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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