

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3706 of 2016

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Mosmat Suraiya Khatoon & Ors

.... Petitioner/s

Versus

Moulvi Khurshid Anwar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Helal Ahmad

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 08-03-2016

Heard the learned counsel, Mr. Helal Ahmad for the
petitioners.

By the impugned order dated 25.01.2016, the learned
Sub Judge, Baisi, Purnea has allowed the amendment application
in Title Suit No.141 of 2014.

The learned counsel for the petitioners submitted that
the suit was filed for declaration of title and confirmation of
possession on the basis of sale deed of the year 1988. Both the
parties adduced their evidences. At the stage of argument, the
amendment application was filed which has been allowed by the
Court below on the ground that it is subsequent event. According
to the learned counsel, it is wrong to say that the plaintiffs were
dispossessed on 01.10.2015 and constructions were made on the
suit property within 01.10.2015 to 01.11.2015. The Court below
should have decided this question on merit as P.W. 1 has already

admitted in his evidence that the constructions were old constructions. The Court below erroneously allowed the application.

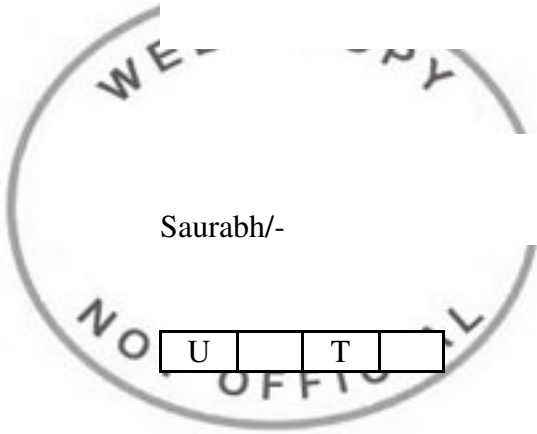
Perused the order. It appears that the amendment sought for by the plaintiff is to the effect that the defendants have dispossessed the plaintiff and made construction from 01.10.2015 to 01.11.2015 and to that effect, a relief was also prayed for recovery of possession. The Court below allowed the application on the ground that it is the subsequent event pleaded by the plaintiff.

So far the submission of the learned counsel for the petitioners that the Court below should have decided the falsity or otherwise of the amendment sought for by the plaintiff is concerned, it may be mentioned here that the Hon'ble Supreme Court in the case of **Rajesh Kumar Aggarwal and others vs. K.K.Modi and others, (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.

Since the plaintiff has prayed for amendment giving the dates for dispossession, which has been allowed by the Court below in the interest of justice, I do not find any reason to interfere

with the impugned order in exercise of supervisory jurisdiction.

Thus, this writ application is dismissed.



Saurabh/-

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(Mungeshwar Sahoo, J)