

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1246 of 2016**

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Ajit Kumar & Anr

.... Appellant/s

Versus

Raj Narain College, Hajipur & Anr

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Naresh Chandra Verma

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO**

ORAL ORDER

2 29-11-2016

Heard the learned counsel for the petitioners.

Perused the impugned order dated 30.06.2016 passed by the learned Additional District Judge 6th, Vaishali at Hajipur in Title Appeal No.3 of 2001 by which the amendment application filed by the defendant-petitioner was rejected.

From perusal of the impugned order dated 30.06.2016, it appears that the Court below considered the case of the petitioner and thereafter found that the petitioner has already filed application under Order 41 Rule 27 C.P.C. for additional evidence and prayer for amendment of written statement has been made in the light of the documents sought to be produced as additional evidence.

The amendment application is Annexure 1 to this miscellaneous case. From perusal of the same, it appears that a new fact is being sought to be brought on record by way of



amendment before the appellate court. The title appeal is of the year 2001. So far the application under Order 41 Rule 27 is concerned, the learned Court below has rejected the same and observed that if at the time of hearing it will be found that the documents are necessary, the documents shall be considered. Now therefore, the petitioner has already been granted opportunity to press his evidence at the time of hearing.

So far the amendment is concerned, it is not the fact that there was such pleading earlier or that the pleading sought to be amended was not within the knowledge of the petitioner prior to passing the judgment and decree in the suit. The learned Court below considering these aspects of the matter has rejected the application for amendment at appellate stage.

As such, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction and accordingly, this Civil Miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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