

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14015 of 2013

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BIHARI RAI SON OF LATE HULAS RAI RESIDENT OF VILLAGE -
AULI, P.O. AND P.S. REVELGANJ, DISTRICT – SARAN.

.... PETITIONER/S

VERSUS

1. BADRI RAI SON OF LATE RAM PRASAD RAI RESIDENT OF
VILLAGE - AULI, P.O. + P.S. REVELGANJ, DISTRICT - SARAN
2. CHANDRADEO RAI SON OF LATE SAGUN RAI.
3. KAILASH RAI.
4. KAMAL RAI.
SONS OF LATE RAM PRIT RAI.
5. JAGARNATH RAI.
6. DUKHIT RAI.
SONS OF LATE HULASH RAI.
ALL RESIDENTS OF VILLAGE - AULI, P.O. + P.S. REVELGANJ,
DISTRICT – SARAN.

.... RESPONDENT/S

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Appearance:

For the Petitioner/s : Mr. Nagendra Rai, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 03-10-2016

Heard learned counsel for the petitioner. In spite of having
been noticed respondents is non-represented.

Petitioner/plaintiff prayer for amendment was made vide
petition dated 07.01.2013 which has been rejected by the order impugned
dated 05.04.2013 passed by Munsif-IVth, Saran at Chapra in Title Suit
No.12/2003, consequent thereupon, instant petition has been filed.

The learned lower court should have considered that
appointment of pleader commissioner was at the end of petitioner/plaintiff to
identify the extent of dispossession having from the land which was earlier
perceived by allowing the amendment wherein approximately. The area from
which petitioner/plaintiff was disposed had disclosed to the extent of five
dhur which, after pleader commissioner's report has been prayed for to be
corrected in consonance therewith which, the learned lower court should have
allowed instead of rejecting the same.

That being so, instant petition is allowed by setting aside the order impugned at a cost of Rs.2500/- which should be deposited by the petitioner before the learned lower court within four weeks positively.

(Aditya Kumar Trivedi, J.)

