

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6115 of 2016

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Ramesh Chandra Rai & Ors

.... Petitioner/s

Versus

Dr. Jyoti Narayan Rai & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ras Bihari Thakur

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 27-07-2016

Heard learned counsel, Mr. R.B. Thakur, appearing

for the petitioners and learned counsel, Mr. V.R.P. Singh
appearing for respondent No. 2.

2. Perused the order dated 05.02.2016 passed by the
Sub-Judge-III, Buxar in T.S. No. 64 of 2013, whereby the court
below has allowed the amendment application.

3. It appears that on the date of the impugned order only
issues have been framed and no witness was examined on behalf
of either party.

4. The Hon'ble Supreme Court in the case of *M/s.*
Revajeetu Builders and Developers Vs. M/s. Narayanaswamy &
Sons and Ors. reported in *2009(10)SCC 84* has held that the
courts have very wide discretion in the matter of amendment of
pleadings. The first condition, which must be satisfied before the
amendment can be allowed by the Court is whether such

amendment is necessary for the determination of the real question in controversy. If that condition is not satisfied, the amendment cannot be allowed. This is the basic test which should govern the Courts' discretion in grant or refusal of the amendment. The other important condition which should govern the discretion of the Court is the potentiality of prejudice or injustice, which is likely to be caused to the other side. Ordinarily, if the other side is compensated by cost, there is no injustice.

5. In view of the above settled proposition of law and in view of the fact that the suit is at a very initial stage, the learned court below has rightly exercised the jurisdiction under Order 6 Rule 17 C.P.C. There is no question of prejudice to the petitioner arises. Thus this writ application is dismissed.

(Mungeshwar Sahoo, J)

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