

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.219 of 2016**

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Shashi Bhushan Lal

.... Appellant/s

Versus

Shushilkant Srivastava & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Binod Kumar Yadav

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR

SAHOO

ORAL ORDER

2 12-08-2016

Heard learned counsel, Mr. Ravi Shankar Sahay,

appearing for the petitioner and learned counsel, Mr. Om Prakash

Pandey, appearing for the plaintiff-respondent No.1.

2. Perused the order dated 16.01.2016 passed by the Sub-Judge-I, Kaimur at Bhabhua in T.S. No. 84 of 2008, whereby the court below refused to allow the petitioner to file additional written statement.

3. Admitted fact is that the amendment sought for by the plaintiff was allowed in the year 2010, which was only formal in nature and this amendment was allowed subject to payment of cost. The petitioner received the cost. Thereafter the plaintiffs examined witnesses and closed their evidence in the year 2014. The defendant-petitioner filed amendment application for amendment of the written statement, which was rejected in the year 2010. Thereafter, the application has been filed seeking permission to file additional written statement in view of the

provision as contained in Order 8 Rule 9 C.P.C. The court below in the impugned order considered the fact that the amendment was allowed in the year 2010 but no permission was sought for filing the additional written statement for last five years. The court below also observed that for bringing the fact pleaded in the additional written statement were sought to be introduced by way of amendment in the year 2014, which was rejected on 16.09.2014. Considering the facts and circumstances of the case, the court below observed that the petitioner is trying to delay the disposal of the suit.

4. In view of the facts and circumstances of the case, in my opinion, in no case, it can be said that the court below passed the order in the manner not permitted by law or that it occasioned failure of justice. On the contrary, if at this stage, additional written statement is allowed to be filed, then it will greatly prejudice the plaintiffs-respondents as their evidence has already been closed. Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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