

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4994 of 2013

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1. Hare Ram Nonia S/O Late Sanchar Nonia Resident Of Village Salauna,
P.S. Bakhari, District Begusarai.

2. Ram Uday Nonia S/O Late Sanchar Nonia Resident Of Village Salauna,
P.S. Bakhari, District Begusarai.

3. Deo Narayan Nonia S/O Late Sanchar Nonia Resident Of Village
Salauna, P.S. Bakhari, District Begusarai.

.... Petitioners

Versus

1. Binod Poddar S/O Late Ram Kishun Poddar Resident Of Village Salauna,
P.S. Bakhari, District Begusarai.

2. Sudhir Poddar S/O Late Yogendra Poddar Resident Of Village Salauna,
P.S. Bakhari, District Begusarai.

3. Ram Naresh Poddar S/O Late Yogendra Poddar Resident Of Village
Salauna, P.S. Bakhari, District Begusarai

.... Respondents

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 09-03-2016 Heard learned counsel for the petitioners as well as

learned counsel for the respondents.

At an initial stage, an eviction suit was filed at the
end of the petitioners against the respondents/defendants wherein
the respondents/defendants appeared and further, by way of filing
W.S. challenged the status of the petitioners to be that of landlord.
On account thereof, petitioners have filed a petition under the
guise of Order-VI Rule-17 of the C.P.C. to amend the plaint in the
background of the fact that under eviction suit, there happens to be
incidental approach of the court while identifying the *interse*



relationship of landlord and tenant, to be converted as regular title suit for proper as well as effective adjudication of the *lis*, which has been resisted by the respondents and the learned lower court, by the order impugned dated 9.1.2012 relating to Title Eviction Suit No.5 of 2009 pending before the Munsif-Ist, Begusarai, rejected the prayer.

It is needless to say that whenever the *interse* relationship is being challenged in an eviction suit then in that event, amendment is permissible for effective adjudication of the *lis*. On that very score, the learned lower court happens to be incorrect in perception that amendment could not be made.

However, from the order impugned, it is evident that there happens to be slackness on the part of the petitioners as is apparent from their conduct itself. W.S. was filed on 27.10.2009, issue was settled, witnesses were produced on behalf of the petitioners/plaintiffs and during course thereof, on 11.1.2011, prayer was made.

In the aforesaid facts and circumstances of the case, while setting aside the order impugned as well as allowing the petition, the same is subject to Rs.15,000/- as cost which should be deposited within four weeks from the date of receipt/production of a copy of this order, failing which the privilege allowed in favour

of the petitioners/plaintiffs will evaporate.

Stay so granted vide order dated 3.5.2013 is hereby

vacated.

(Aditya Kumar Trivedi, J)

N.H./-

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