

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2805 of 2015

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Hemant Mahton @ Hemant Kumar Prasad

.... Petitioner/s

Versus

Pankaj Mahton & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kaushal Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 04-03-2016 1. Heard the learned counsel, Mr. Kaushal Kumar, for the
petitioner.

2. By the impugned order dated 19.12.2014, the learned
Sub Judge, Jr. Division) (Munsif-Ist) Begusarai has allowed the
amendment application filed by the plaintiff in Title Suit No.89 of
2000/ C.I.S. Reg. No.738 of 2013.

3. Perused the order. The learned Court below found that
the amendment sought for is necessary for just decision of the
controversy and, therefore, allowed the amendment application at
belated stage on payment of cost to the defendant.

4. The learned counsel for the petitioner relying on the
decision of the Hon'ble Supreme Court reported in **2013 (2) PLJR**
356 submitted that in view of this decision, the Court below could

not have allowed the amendment application because the plaintiff had the knowledge of the fact which is now being introduced by way of amendment without explaining the reason as mentioned in Proviso to Order VI Rule 17 CPC.

5. It may be mentioned here that the decision relied upon by learned counsel for the petitioner relates to the principle of amendment in a suit after the commencement of the CPC Amendment Act No.22 of 2002 which came into force on 01.07.2002. The Hon'ble Supreme Court in *2007 (1) SCC 765 and also 2009 (12) SCC 689* has held that '**Proviso to Order VI Rule 17 will not apply in cases of the suits instituted prior to 1st July, 2002.**'

6. In view of the above facts and circumstances of the case, I find no reason to interfere with the impugned order and, therefore, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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