

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 10398 of 2013

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Madan Sah, Son of Sital Sah, Resident of Village - Jamo Bazar, District - Siwan
.... Petitioner

Versus

1. Jamiruddin Mian, Son of Hassuriddin Miya, Resident of Village - Kasba, P.S. Baniapur, District - Saran, at present residing at Jamo Bazar, P.S. Jamo Bazar, District - Siwan
2. State of Bihar, through the District Magistrate, Siwan
3. The Circle Officer, Goreyakothi Block, Siwan

.... Respondents

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Appearance :

For the Petitioner	: Mr. Ranjeet Kumar, Advocate Mr. Kundan Kumar, Advocate Mr. Akeesh Keshav, Advocate
For the Respondent No. 1	: Mr. Raj Kishore Prasad, Advocate
For the Respondent No. 2 & 3	: Mr. Ajay Bihari Sinha, G.A.-VIII Mr. Suryakant Kumar, A.C. to G.A.-VIII

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 09-11-2016

Heard learned counsel for the parties.

This application has been filed questioning the legal sustainability of the impugned order by which the learned court below has turned down the prayer on behalf of the plaintiff seeking amendment in the plaint.

From the record, it transpires that by order dated 04.09.2013 while issuing notice to the respondent no. 1 the further proceeding of the suit in the court below was stayed. However, by subsequent order dated 06.09.2016 the court below was directed to proceed with the trial on day to day basis and conclude the same within four weeks positively. The office has pointed out that



no response has been received from the lower court in view of the direction as contained in the order dated 06.09.2016.

After considering the submissions and materials on record, it transpires that the Title Suit No. 43 of 1987 was filed by the plaintiff-petitioner for declaration of title and possession over the suit property. It further transpires that the evidence of the parties was complete and the argument in the suit on behalf of the defendant was also complete and at that stage the prayer for amendment was made by the plaintiff. From the statement made in the amendment petition (Annexure-1) it does not appear that the cogent explanation has been furnished by the plaintiff-petitioner for not preferring the amendment at earlier stages when the evidence was being led by the parties. It also appears that if the proposed amendment is allowed the defendant would have to be granted opportunity to file additional written statement and the parties would also lead evidence resulting in de novo trial of the suit.

In the aforesaid facts and background, this Court is not inclined to invoke the jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.

The application is, accordingly, dismissed.

However, the petitioner shall have the liberty to



raise his objection, if such occasion arises, under Section 105
C.P.C. in accordance with law.

(V. Nath, J.)

Kundan

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

