

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.997 of 2016**

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1. Nagendra Prasad Son of late Gopi Sah
2. Lal Babu Prasad.
3. Anil Prasad@Anil Kumar
4. Bablu Prasad@Bablu Kumar All are sons of late Moti Lal Prasad
5. Asharfi Prasad Son of late Gopi Sah
6. Rambabu Prasad
7. Manoj Prasad@Manoj Kumar
8. Sambhu Prasad All are sons of late Satya Narayan Sah All are resident of Mohalla- Sugauli Mai, Ashtan ward No. 10, PS and P.O. Sugauli, District East Champaran.

.... Appellant/s

Versus

1. Bashudeo Prasad Gupta Son of late Baidnath Sah All are resident of Mohalla- Sugauli Mai, Ashtan ward No. 10, PS and P.O. Sugauli, District East Champaran.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Pravin Kumar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 28-10-2016 Heard Mr. Vijay Shankar Shrivastava, learned counsel
appearing on behalf of the petitioners.

Perused the impugned order dated 29.07.2016 passed by the learned Sub-Judge-XI, Motihari, East Champaran, in Title Suit No. 932 of 2015, whereby the learned court below has allowed the amendment application filed by the plaintiff/ respondent.

From perusal of the impugned order it appears that the court below has allowed the amendment application on the ground that by the amendment, some new facts are brought in the plaint on the basis of previous partition which does not change the

nature of suit and the suit is at very initial stage i.e. trial has not yet commenced.

It is settled principle of law that court below has very wide discretion to allow all the amendments which are necessary for the determination of the real controversy between the parties at any stage. Reference may be made in this matter to the decision of the Supreme Court in case of (Revajeetu Builders & Developers Vrs. Narayanswamy and Sons & others) 2009 (10) S.C.C. 84. The Hon'ble Supreme Court in this case has held that the court have very wide discretion in the matter of amendment of the pleadings. The court must not refuse bonafide, legitimate, honest and necessary amendment. The test condition is that if the amendment is necessary for determination of real question in controversy, the same must be allowed. Secondly, if no prejudice or injustice is caused to the other side amendment must be allowed. In the present case, when trial has not commenced, there is no question of prejudice to the present petitioner arises.

Thus, I do not find any reason to interfere with impugned order. Accordingly, this Civil Miscellaneous Application is dismissed.

m.pal

(Mungeshwar Sahoo, J)

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