

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3300 of 2016

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Alakh Kumar Singh

.... Petitioner

Versus

Pramod Kumar Singh & Anr

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Siddharth Harsh

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR

SAHOO

ORAL ORDER

2 08-03-2016

Heard the learned counsel Mr. Siddharth Harsh for the petitioner.

The learned Munsif, Aurangabad by order dated 20th January, 2016 allowed the amendment application filed by the plaintiff in Title Suit No. 43 of 1997 (C.I.S. No. 1531 of 2013).

Perused the order passed by the court below. It appears that the Title Suit was filed for declaration of title, in the alternative, recovery of possession and for confirmation of possession. Thereafter, amendment application was filed by the plaintiff seeking amendment in relief portion whereby the recovery of possession was sought for.

The Court below in the interest of justice has allowed the said amendment application.

The only grievance of the petitioner is that the court below has allowed amendment application at very belated stage particularly when both the parties have closed their evidences and even the petitioner has already argued the case and the relief for recovery of possession is time barred.

It may be mentioned here that the suit has been filed in the year 1997 for declaration of title. The plaintiff is not praying for amendment in the facts of the plaint, nor the plaintiff ever prayed to substantiate his case introduced by amendment by adducing further evidence on the basis of the pleadings already there. He prayed for recovery of possession of the suit property.

It may be mentioned here that the defendants are claiming the ownership and possession. Therefore, in view of the above facts, in any way, it cannot be said that the amendment sought for is either mala fide or has been made with an intention to delay the disposal of the suit.

So far the submission of the petitioner that it is time barred is concerned, it may be mentioned here that there is no question of time barred arises because the suit has been filed for declaration of title of the suit property and for recovery of possession and it will be governed by the Article 65 of the Limitation Act.

Thus, I find no reason to interfere with the impugned order. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J.)

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