

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2839 of 2016

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Ram Bilas Sah & Anr

.... Petitioner/s

Versus

Smt. Prabhavati Devi @ Ganga Devi & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Radha Mohan Pandey

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

- 2 01-03-2016 **1.** Heard the learned counsel, Mr. Radha Mohan Pandey, for the petitioner.
- 2.** By the impugned order dated 17.04.2014, the learned Sub Judge IVth, Kaimur at Bhabhua in Execution Case No.2 of 2010 allowed the amendment application filed by the plaintiff respondent for correction of the description of the suit property.
- 3.** Perused the order passed by the Court below. From perusal of the order, it appears that the description of the land, i.e., the name of the village and boundary has been corrected by amendment and it is not the case of the party that another land has been substituted in place of the original land.
- 4.** It may be mentioned here that the petitioner is claiming to have purchased the suit property in suit for specific performance of contract. Decree has been passed and the present petitioner has filed

Second Appeal which is pending before the High Court. In the execution case when it was detected that there is mis-description of the property, the application as filed for amendment which has been allowed by the Court below finding it to be a typing mistake.

5. The Hon'ble Supreme Court in the case of *Peethani Suryanarayana Vs. Repaka Venkata Ramana Kishore (2009) 11 SCC 308* has allowed the amendment application after even final decree. In the case, before the Supreme Court in the plaint, in the preliminary decree, as also in the final decree, there was mis-description of the suit property. The Hon'ble Supreme Court held that the identity of the suit land has not been changed. One land is not being substituted by another. In the present case also, it is not the case of the petitioner that the property described in the suit for specific performance has not been purchased by him and that property is different than the property mentioned in the amendment application.

6. In such view of the matter, the learned Court below has rightly allowed the amendment application, therefore, no case for interference in supervisory jurisdiction is made out.

7. Thus, this writ application is dismissed.

Sanjeev/-

(Mungeshwar Sahoo, J)

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