

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17665 of 2014

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Sri Ram Singh

..... .. Petitioner/s

Versus

Shivdeo Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Roy

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO

ORAL ORDER

2 18-01-2016

Heard learned counsel Mr. Dharmendra Kumar Sinha,

for the petitioner.

The learned Subordinate Judge-II, Buxar by the impugned order dated 21.08.2014 allowed the amendment application filed by the plaintiff-respondent in Title Suit No. 118 of 1999.

It appears that the plaintiff filed aforesaid suit for partition. The defendant filed written statement claiming the entire property on the ground of adoption. Subsequently amendment application was filed by the plaintiff claiming a relief to the effect that the registered gift deed dated 06.07.1993 is illegal, void and is not binding on the plaintiff. By the impugned order the Court has allowed the said amendment application.

It may be mentioned here that the plaintiff's suit for partition can be allowed only if the adoption by which the

defendant is claiming title on the entire property. Therefore, the relief which is now claimed by the plaintiff is essential for the just decision of the controversies between the parties. So far the belated stage for filing an amendment application is concerned, it may be mentioned here that the proviso to Order 6 Rule 17 C.P.C. will not apply in the present case as the amendment came into force from 1st of July 2002 as has been held by the Hon'ble Supreme Court in **(2007) 1 Supreme Court Cases 765 State Bank of Hyderabad Vs. Town Municipal Council** and (2009) 12 Supreme Court Cases 689 **Shumesh Singh Vs. Phoolano Devi & Others.**

So far the submission that the amendment sought for is not formal, it may be mentioned here that since the plaintiff is only claiming the relief which is essential for just decision, there is no question of prejudice to the petitioner arises. Accordingly, the order passed by the Court below cannot be interfered with in supervisory jurisdiction. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J.)

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