

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12666 of 2015

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Binda Prasad @ Binda Prasad Choudhary

.... Petitioner/s

Versus

Mahendra Prasad & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 04-05-2016

Heard the learned counsel for the petitioner.

By the part of the impugned order dated 25.06.2015, the learned Sub Judge Ist Sitamarhi allowed the amendment application in Title Suit No.184 of 2013.

Admittedly, the application filed by the plaintiff under Order 40 Rule 1 CPC for appointment of receiver was also allowed by the other part of the order against which Misc. Appeal No.268 of 2015 has been filed by the defendant petitioner before this Court. Another Misc. Appeal No.265 of 2015 has been filed by another defendant respondent herein. Both the Misc. Appeal are pending before the High Court. This writ application under Article 227 has been filed against the order whereby amendment of the plaint has been allowed.

It is not the case of the petitioner that evidence of the plaintiff or the defendant have yet started in the suit. It is not the

case that the defendant petitioner will be prejudiced because he has already closed his evidence or it is not the case that in view of Proviso to Order 6 Rule 17 CPC, the delay has not been explained by the plaintiff. The only grievance of the petitioner is that his property is included by way of amendment in the suit.

Since the petitioner has got the right to file additional written statement to the amended portion only, in my opinion, no prejudices is caused to the petitioner. Therefore, so far the part of the order whereby the amendment application has been allowed, the order cannot be interfered with in exercise of supervisory jurisdiction.

Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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