

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1201 of 2016**

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Ram Janam Ram & Anr

.... Appellant/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dharmesh Kumar Shrivastava

For the Respondent/s : Mr. Md. Khurshid Alam- Aag12

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

3 09-12-2016 Heard learned counsel for the petitioners and learned
counsel for the respondent-State.

2. Perused the impugned order dated 25.07.2016 passed
by learned Additional District Judge-VI, Kaimur at Bhabua in
Title Appeal No.21 of 2012/27 of 2014 whereby the lower
appellate court has allowed the amendment application filed by the
plaintiff-respondent and allowed to amend the plaint seeking
alternative remedy for recovery of possession of the suit property.

3. The Hon'ble Supreme Court in the case of **Revajeetu
Builders and Developers Vs. Narayanaswamy and sons and
others (2009) 10 Supreme Court Cases 84** has held that the
Courts have very wide discretion in the matter of amendment of
pleadings. The Court while deciding the application for
amendment must not refuse the bona fide, legitimate, honest and
necessary amendment. The first condition which must be satisfied



before the amendment can be allowed by the Court is whether such amendment is necessary for the determination of real question in controversy. If that condition is not satisfied, the amendment cannot be allowed. This is the basic test which should govern the Court's discretion.

4. The Hon'ble Supreme Court in the case of **L.C. Hanumanthappa Vs. H.B. Shivkumar (2016) 1 Supreme Court Cases 332** has held that all amendments ought to be allowed which satisfy two conditions (a) of not working injustice to the other side, and (b) of being necessary for the purpose of determining the real question in controversy between the parties.

5. In the present case, the plaintiff is not praying for amendment in the facts pleaded in the plaint but on the basis of the same pleading only alternative prayer is sought to be added by way of amendment. Therefore, there is no question of prejudice to the petitioners arises.

6. From perusal of the order of the court below, it appears that the court below clearly recorded a finding that the amendment sought for is necessary for just decision of the controversies between the parties. Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction.



7. Accordingly, this civil miscellaneous application is
dismissed.

(Mungeshwar Sahoo, J)

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