

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1032 of 2014

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Yogendra Pathak

.... Petitioner/s

Versus

Prabhas Kumar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Kant

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

5 21-01-2016 1. Heard the learned counsel, Mr. Chandra Kant, for the
petitioner.

2. By the impugned order dated 25.09.2013 passed by Sub
Judge II Bagaha, West Champaran in Title Suit No.47 of 2005
whereby the Court below has allowed the amendment petition
filed by the plaintiff respondent.

3. The learned counsel for the petitioner assailed the order
firstly on the ground that all the six plaintiffs have not joined.
Secondly, that by amendment the suit for injunction was converted
to a suit for rectification of the deed of the year 1962, therefore,
the claim for rejection is barred. According to the Supreme Court
in the case of ***Voltas Ltd. Vs. Rolta India Ltd. 2014 (4) SCC 516***
and various other decisions relied upon by the petitioner, the claim
which is barred cannot be allowed by way of amendment but the

Court below has allowed the amendment application. The Court below has passed a cryptic order.

4. So far the objection of the petitioner regarding first question and the third question are concerned, those are technical objection. So far the question regarding limitation is concerned, here the plaintiff filed the application praying for rectification of the deed of exchange on the ground that plot number in the said deed is wrongly typed as different plot. Therefore, in this present case, it is not admitted fact that the prayer or the relief which the plaintiff is praying for by way of amendment is barred by law of limitation. If it is in fact mistake, then it is to be corrected and for that there is no prescribed period. It depends on the facts of the case that may be brought by the parties by evidence. It is not the case of the petitioner that the parties have already adduced their evidences and in fact the same has already been concluded so that the petitioner is prejudiced.

5. In such circumstances the Court below has rightly allowed the amendment application, as such the order needs no interference in supervisory jurisdiction. Thus, this writ application is dismissed.

Sanjeev/-

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(Mungeshwar Sahoo, J)