

Laxman Sah Son Of Jagdish Sah Resident Of Village- Hardah Bazar, P.S.
K. Hat Maranga, District Purnia

Versus

- Respondents.

For the Respondent/s : Mr.

The learned counsel for the petitioner has submitted that initially the plaintiff filed the suit for grant of permanent injunction simpliciter and when the defendant filed the written statement contesting the prayer of the plaintiff, the present amendment has been filed whereby the earlier relief for grant of



injunction has been sought to be deleted and substituted by the relief for declaration of title as well as the relief regarding possession. It has also been pointed out by the learned counsel that the amendments as sought by the plaintiff is by way of overhauling the entire plaint and replacing it with a new plaint. The learned counsel has also submitted that in view of the proviso to Order 6 Rule 17 C.P.C. the prayer for amendment cannot be granted and the court below has committed illegality as well as error of jurisdiction in passing the impugned order.

After perusal of the impugned order and consideration of the submissions, it is manifest that the suit was initially filed by the plaintiff for the relief of grant of injunction alone. Subsequently the amendments have been sought whereby the relief for declaration of title as well as the relief with regard to possession have been sought to be added and further also some more facts have been sought to be added in the plaint. From the ordersheet (Annexure-6) it is apparent that the evidence in the suit has not yet started and the direction has been issued by the learned court below to the plaintiff to furnish witness list and adduce evidence. This fact has not been controverted on behalf of the petitioner during submission.

The purpose of amendment of pleadings as

envisaged under the provision of Order 6 Rule 17 C.P.C. is primarily to facilitate the adjudication of all disputes arising between the parties effectively and finally. Though, the proviso has been added by amendment but the stage of applicability of the proviso arises only after the trial has begun. In the present case, it is apparent that the trial has not begun in the sense that none of the parties have led any evidence till the filing of the amendment petition. The fact also cannot be ignored that in a suit for grant of permanent injunction, the issue of title is necessarily involved albeit incidentally. Learned court below has considered all the aspects elaborately and after allowing the prayer for amendment has also granted the opportunity to the defendant to file additional written statement besides also granting cost.

In this backdrop, this Court does not find that the learned court below has committed any illegality or error of jurisdiction in passing the impugned order.

The present application is, accordingly, dismissed.

(V. Nath, J)

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