

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.476 of 2016

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Nirmala Devi

.... Appellant/s

Versus

Raj Kumar & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mrityunjay Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

- 3 02-02-2017 1. Heard the learned counsel, Mr. Mrityunjay Kumar, for the petitioner and the learned counsel, Mr. Dronacharya, for the respondent No.1 and the learned counsel, Mr. Rakesh Chand, for the respondent No.2.
2. Perused the impugned order dated 21.03.2016 passed by learned Munsif, Khagaria in Title Suit No.8 of 2011 whereby the learned Court below rejected the amendment application filed by the plaintiff petitioner.
3. Admittedly, in the present suit only issues have been framed. Evidences has not yet been started. Earlier the plaintiff was claiming for declaration of title on the basis of sale deed and now the plaintiff is claiming title by way of amendment on the basis of adverse possession. Since no evidence has been started, there is no question of prejudice to the defendant-respondent



arises. So far the changing of the nature of the suit is concerned, earlier also the relief was sought for declaration of title and after amendment also, the plaintiff petitioner is claiming for declaration of title. The Court below wrongly rejected the amendment application on the ground that new cause of action has been added. In my opinion, on this ground, the amendment application which is pre-trial amendment could not have been rejected.

4. Thus, this Civil Misc. application is allowed. The impugned order is set aside. The amendment application filed by the petitioner is hereby allowed. The defendant respondent may, if so advised and if necessary, file additional written statement to the amended portion of the plaint only.

(Mungeshwar Sahoo, J)

Sanjeev/-

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