

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1115 of 2016

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1. Dr. Umesh Kumar Singh Son of Late K.P. Singh Resident of Sambika Path, New Dillian, P.S. Dehri-On-Sone, District - Rohtas, Bihar -Appellant

Versus

1. Smt. Indra Singh Wife of Dr. Umesh Kumar Singh, Daughter of Sri Krishna Shankar Singh Resident of Station Road Mohaniya, P.S. Mohaniya, District Kaimur, Bihar. Respondent/s

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Appearance :

For the Appellant/s : Mr. J. S. Arora, Sr. advocate

Mr. Avanish Kumar Singh

For the Respondent/s : Mr. Kumar Sunil

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

4 19-12-2017

Heard both sides.

The petitioner has filed this Civil Misc. petition against the order dated 07.05.2016 passed by the learned Principal Judge, Family Court, Kaimur at Bhabua in Matrimonial case No. 13 of 2006.

The petitioner filed the matrimonial case No. 13 of 2006 for dissolution of marriage on the ground of cruelty. The petitioner stated that his wife/ respondent is suffering from schizophrenia and she committed acts of cruelty against the petitioner. The petitioner filed a petition under Order VI Rule 17 of the Code of Civil Procedure to bring on record the documents such as FIR and the informatory petition on record for incorporating those facts in the plaint. The learned counsel for the respondent did not object in the court below nor chose to file rejoinder to the petition dated 22.04.2016 seeking amendment of the plaint but the learned Principal Judge vide order dated 07.05.2016 rejected the petition for amendment on the ground that the petitioner was well aware of all those facts from before about the institution of the case and presentation of informatory petition but the petitioner did not take any step to bring those facts on record and the petitioner filed the petition at a very belated stage



when the suit is fixed for argument.

Mr. J. S. Arora, the learned senior counsel for the petitioner, submits that the petitioner undertakes not to examine any witness in support of those documents to be brought on record but the documents are admitted by both the parties and are relevant for the purpose of deciding the case.

The learned counsel for the respondent, however, contended that the petition for amendment was filed at a very belated stage.

Having considered the submissions of both sides, I find substantial force in the submission of learned senior counsel for the petitioner. The petitioner filed petition under Order VI Rule 17 of the CPC for incorporating certain facts and for bringing on record admitted documents filed by the respondent after institution of the suit. The basic principle dealing with petition of amendment is that all the facts required to be brought on record, in order to resolve the dispute between the parties, should be allowed to be brought on record provided the same would not cause any prejudice or irreparable loss to the other side. I find that the amendment is only clarificatory in nature and no prejudice would cause to the respondent. The learned Principal Judge has committed jurisdictional error in rejecting the petition of the amendment and the same is not sustainable.

Accordingly, the order dated 07.05.2016 is set aside with a liberty to respondent to file rejoinder, if any, if required. This Civil Misc. petition is allowed.

(Prabhat Kumar Jha, J)

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