

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6652 of 2014

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Kailash Sharma Son of Narsing Thakur, resident of village-Sheikh Toli, Laukhan,
P.S.-Ghorasahan, District-East Champaran at Motihari.

.... Petitioner/s

Versus

1. Ram Sevak Thakur Son of Late Shivnan Thakur, resident of village-Sheikh Toli
Laukhan, P.O.-Bishambharpur, P.S.-Ghorasahan, District-East Champaran at
Motihari.
2. Ram Charitra Sharma
3. Ram Briksha Thakur
4. Ram Sundar Thakur
Sl. No. 2 to 4 are sons of
5. Dharmukhi Devi Wife of Jokhu Sharma
Sl. No. 2 to 5 are resident of Mahanguwa Lakhan P.O. and P.S.-Kundua
Chainpur, District- East Champaran at Motihari.
6. Champa Devi Wife of Chandrika Thakur, resident of village-Suggapipur, P.S.-
Dhaka, District-East Champaran-
7. Chandradeo Thakur Son of Late Prasad Thakur
8. Daroga Thakur Son of Late Prasad Thakur
9. Jaylal Thakur Son of Late Prasad Thakur
10. Ram Vidya Thakur Son of Late Prasad Thakur
Sl. No. 7 to 10 are resident of village-Sorpaniya, P.O. and P.S.-Dhaka, District-
East Champaran, Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Mukesh Kumar Jha and Bhola Prasad, Advs.

For the Respondent/s : Mr. Narayan Singh, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 15-12-2017

This application has been filed for setting aside the order
dated 18.01.2014 passed by the learned Sub-Judge-I, Motihari in
Partition Suit No. 420 of 2007 whereby and whereunder the learned
Court below refused to amend the written statement which was filed
by the original defendant.

2. Heard learned counsels for the petitioner as well as



the respondents.

3. The respondent no. 1 has filed a Partition Suit No. 420 of 2007 against six defendants. The father of this petitioner was defendant no. 1, who died leaving behind three sons as his legal heirs. The petitioner is one of them. This petitioner in pursuance of his substitution, appeared before the Court below and filed a written statement instead of adopting the written statement filed by his father. The Court below refused to accept his written statement, however liberty was given to amend the written statement of his father if required. The petitioner filed an amendment petition, which was opposed by the respondents and the Court below rejected the said amendment petition. A copy of amendment petition has been annexed as Annexure-5 to this writ application. The petitioner wants to substitute few words/name in paragraph 7 and page 4-5 of the written statement. The said amendment appears formal in nature and is not prejudicial to the plaintiff. The Court below while rejecting the amendment petition, has observed that by the proposed amendment the petitioner wants to withdraw some admitted facts, which were stated by his father.

4. After going through the amendment petition as well as the written statement on record, I find that the proposed amendments are simple in nature and do not contradict the earlier



pleading. As such the order dated 18.01.2014 passed by the Court below is set aside and the amendment petition filed by the petitioner is allowed. The respondent however will have liberty to rebut the facts brought by defendant by amending the written statement.

5. Accordingly, this application is allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.12.2017
Transmission Date	

