

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.296 of 2017

Jay Shankar Kumar S/o late Surya Narain Yadav R/o Village +Tola- Kumiahi,
Panchayat- Simaria, P.S.- Triveniganj, District- Supaul.

... .. Appellant/s

Versus

1. Manohar Henry, son of late Denilal Henry, resident of Mauza- Thalha Gariha Tola, P.S.- Lal Bihari Khunt, P.S.- Triveniganj, District- Supaul.
 2. Murial Henry, Wife of Michal Henry
 3. Sushil Henry, Son of Michal Henry
- 2 and 3 are resident of Bharwari, P.S.- Bharwari, District- Koshambi, U.P.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Siddharth Prasad Mr. Abhay Shanker Mr. Shashi Shekhar Kumar Prasad
For the Respondent/s	:	Mr. Ankit Katriar

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 15-11-2017 An order, dated 19.08.2016, passed, in Title Suit No. 26 of 1998, by learned Sub Judge VI, Supaul, is under challenge in the present application filed under Article 227 of the Constitution of India.

By the impugned order, the Court below has reviewed an order, dated 16.04.2016, passed earlier, whereby an application seeking amendment in the plaint was rejected.

On perusal of the impugned order, I find that the only reason which the Court below has assigned is that in order to expedite disposal of the suit, it is necessary to review the order and allow amendments in the plaint, as sought by the plaintiffs.



I have heard learned Counsel for the petitioner and learned Counsel appearing on behalf of the respondents.

Learned Counsel appearing on behalf of the petitioner has submitted that no reason has been assigned in the impugned order, which are germane for exercise of power under Order 47 Rule 1 of the Code of Civil Procedure, 1908. He submits that the amendment petition was earlier rejected rightly by the Court below since the amendment petition was time barred.

Learned Counsel appearing on behalf of the respondents, on the other hand, has submitted that the Court below has rightly reviewed the order since earlier the Court below had wrongly rejected the amendment petition on the ground of the relief sought to be amended and introduced to be time barred.

On perusal of the impugned order, I find substance in the submission made on behalf of the petitioner that the Court below has not discussed the grounds for review, which are germane for the exercise of power under Order 47 Rule 1 of the Code of Civil Procedure, 1908.

The impugned order, dated 19.08.2016, is, accordingly set aside. The matter is remanded back to the Court below with a direction to pass an order afresh on the review application filed on behalf of the plaintiffs/respondents within a period of two



months from the date of communication of the present order.

The Court below shall proceed in the suit thereafter.

This application is allowed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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