

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5499 of 2013

In
C.R. 385 of 2009

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Gorakh Nath Singh & Ors

.... Petitioner/s

Versus

Rabhawati Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

10 13-09-2017 **1.** Heard the learned counsel for the petitioner and the
learned counsel for the respondent.

2. This writ application has been filed under Article 227 of
the Constitution of India for setting aside the order dated
28.11.2008 passed by learned Sub Judge Ist, Gopalganj in Title
Suit No.52 of 2003 whereby the application filed by the plaintiff
petitioner under Order VI Rule 17 CPC for amendment of the
plaint has been rejected.

3. Admittedly, the parties have completed their evidence
and the suit is at the stage of argument and at this stage
amendment application was filed by the plaintiff praying for
deleting paragraph 11 of the plaint on the ground that the plaintiff
had not instructed the Advocate to add the self acquired property



in the schedule of the plaint.

4. From perusal of paragraph 11 of the plaint, it appears that the statement made by the plaintiff is that this property is the self acquired property of the plaintiff which is mentioned in Schedule No. 'A'. The defendant filed written statement claiming that this property is the joint family property and, therefore, it should also be partitioned. Since both the parties have already adduced evidence, this question is to be decided in this very suit. As stated above, the parties have already completed their evidence and if at this stage, this amendment is allowed then it will lead to multiplicity of proceeding and will also delay the matter because in that case the defendant will be required to file a counter claim. Moreover, since plaintiff is claiming the property as self acquired property and statements have been made to that effect in paragraph 11 of the plaint, the amendment sought for is not at all necessary.

5. In view of the above facts and circumstances of the case, the order passed by the Court below with regard to deletion of paragraph 11 along with related schedule needs no interference in exercise of supervisory jurisdiction and so far correction of year in paragraph 9 is concerned, it relates to only year which appears



to be mistake and, therefore, it is allowed.

6. In the result, this writ application is allowed in part. The amendment of deleting paragraph 11 along with related schedules is refused and the amendment sought for in paragraph 9 of the plaint is hereby allowed.

7. It is made clear that the plaintiff shall not be allowed to adduce any further evidence with respect to the amendment allowed in paragraph 9.

(Mungeshwar Sahoo, J)

Sanjeev/-

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