

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15253 of 2013

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1. Manoj Yadav Son Of Late Shiv Singh Resident Of Village- Shekhpura, P.S.-
Barun, District- Aurangabad (Bihar)

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Collector, Aurangabad
3. The Special Land Acquisition Officer, Aurangabad
4. Suryadeo Singh S/O Late Somaru Singh Resident Of Village- Narari Kala, P.O.-
Saduri Karma, P.S.- Barun, District- Aurangabad (Bihar)
5. Yadu Singh Son Of Late Raghuni Singh Village- Kurwan, P.S.- Barun, District-
Aurangabad
6. Brahmdeo Singh Son Of Late Ram Badan Singh R/O Village- Kurwan, P.O.-
Ankorha, P.S.- Barun, District- Aurangabad
7. Mittal Singh S/O Late Deonandan Singh R/O Village- Kurwan, P.O.- Ankorha,
P.S.- Barun, District- Aurangabad (Bihar)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. ANIL KR SINGH NO. 6
For the Respondent/s : Mr. MANOJ PRIAYDARSHI

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 10-01-2017

Heard learned counsel for the petitioner.

By the impugned order the learned court below has
allowed the prayer for amendment in the plaint as made by the
plaintiff.

The defendant in the suit has filed the present
application under Article 227 of the Constitution of India praying
for quashing the said order allowing the prayer for amendment.

Learned counsel for the petitioner has submitted that
by the impugned order the entire nature of the suit will change as



initially the plaintiff has filed the suit for getting the compensation money for acquisition of the land. It has also been pointed out by the learned counsel for the petitioner that the claim of the plaintiff has been turned down by the Collector of the district holding the defendant to be entitled to the aforesaid compensation amount. Learned counsel, therefore, has submitted that the court below has committed error in allowing the prayer for amendment.

After considering the submissions and perusal of the impugned order, it is manifest that the issues in the suit was not framed and the trial, had not commenced when the prayer for amendment was made by the plaintiff. The principle in this regard has been well settled by the Apex Court in the case of ***Rajesh Kumar Aggrawal vs K.K. Modi (2006) 4 SCC 385*** that all the amendment in the pleading should be allowed which are necessary to finally adjudicate the dispute between the parties. It has been further observed by their Lordships that, if a fresh suit can be maintainable on the basis of the cause of action sought to be added by the amendment there cannot be any impediment in allowing the amendment, and decide the same on merits. By the impugned order the learned court below has also granted liberty to the defendant to file additional written statement in view of the amendment as sought by the plaintiff. This Court,



therefore, in view of the law laid down by the Apex Court is not inclined to invoke its jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.

The application is, accordingly, dismissed.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
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