

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19816 of 2013

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Lallu Singh S/o Late Ganesh Singh, resident of village- Kadai, P.O- Kudara, P.S- Kudra, District- Kaimur (Bhabua).

.... Petitioner/s

Versus

1. The State of Bihar through Collector, Bhabua.
2. Anchal Adhikari, Kudra, P.S- Kudra, District- Kaimur.
3. Satyendra Singh S/o Braj Bhushan Singh, resident of village- Kudai, P.O & P.S- Kudra, Kaimur.
4. Sheela Kunwar W/o Late Mahendra Singh, resident of village- Kudai, P.O & P.S- Kudra, Kaimur.
5. Kanhaiya Singh S/o Late Gukula Singh, resident of village- Kudai, P.O & P.S- Kudra, Kaimur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Pandey, Adv.

For the Respondent/s : Mr. Anil Kumar Singh, GP-26

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 18-12-2017

Heard learned counsels for the petitioner as well as the
respondent (State of Bihar).

2. It has been submitted that the sole petitioner, Lallu Singh died on 02.01.2016 leaving behind his brother Heraman Singh as his legal heir/representative. The said Heraman Singh has filed I.A. No. 4111 of 2016 along with vakalatnama. It is submitted that the petitioner of interlocutory application was suffering from several diseases and he always remained out of Bihar and so substitution petition could not be filed earlier. The learned counsel for the State of Bihar on the other hand opposed the submission.



3. In view of submission of learned counsel for the petitioner, prayer as made in the I.A. No. 4111 of 2016 is allowed and Mr. Heraman Singh is ordered to be substituted in place of petitioner, Lallu Singh.

4. In the writ petition, prayer has been made for setting aside the order dated 4th March 2013 passed by the learned Sub-Judge-II, Bhabua in Title Suit No. 187 of 1995 whereby and whereunder the amendment petition filed for amending the plaint, was rejected.

5. The petitioner-plaintiff by the proposed amendment, wants to insert his claim by virtue of adverse position also. The learned Court below while rejecting the prayer of the plaintiff, has observed that the proposed amendment petition has been filed at the belated stage.

6. On perusal of impugned order and documents on record I find that the suit was filed on 13.09.1995. The defendant appeared and filed written statement on 03.10.1996. Both the parties adduced their oral and documentary evidence and the case is fixed for argument. The plaintiff filed the amendment petition at the stage of final argument.

7. From the submission of both the parties it appears that the plaintiff has his land adjoining west of the disputed land. In



description of suit property, the plaintiff has mentioned the name of one Ram Prasad in the western boundary, which shows that the plaintiff has no land in western side. The said land is part and partial of a big plot, which stands recorded in the name of State of Bihar as submitted by the learned counsel for the respondents. The plaintiff in his plaint, has asserted that he is coming in possession over the said land since last 40 years. Now he wants to introduce a new case of adverse position against the State of Bihar. This amendment certainly changes the nature of the suit. As the evidence of both the parties have been closed and the case is pending for argument, the learned Court below has rightly rejected the amendment petition.

8. In view of above facts, I do not find any illegality in the impugned order requiring any interference. This application is devoid of merit and is, accordingly, dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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