

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.824 of 2016

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Bajjnath Manjhi, son of Bagrudal Manjhi, resident of village-Bithuna, Post Office-Bithuna, P.S.-Basantpur, District-Siwan. Plaintiff/Petitioner.

Versus

1. Dwarika Manjhi, son of Gatta Manjhi @ Babulal Manjhi.
 2. Most. Rajpati Kuwar, wife of Late Amika Manjhi.
- Both resident of village-Bithuna, Post Office-Bithuna, P.S.-Basantpur, District-Siwan. Defendants/ Respondents.
- =====

Appearance :

For the Petitioner : Mr. Raghav Prasad, Adv.

For the Respondents : Mr. Walliur Rahman, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

Date: 11-04-2017

Heard Mr. Raghav Prasad, learned counsel for the petitioner and Mr. Walliur Rahman, learned counsel for the respondents.

The plaintiff in Title Suit No.63 of 2002 has filed this application under Article-227 of the Constitution, questioning the legal acceptability of the impugned order by which the learned Court below has rejected the prayer of the plaintiff for amendment in the plaint.

After considering the submissions and perusal of the materials on records, it is evident that the suit has been filed in the year 2002 for declaration that the order dated 12.10.2001, passed in Basgit Parcha Case No.7/2001-2002, is entirely ineffective and not operative. There is no dispute that the suit proceeded and hearing was complete. Thereafter, the argument on behalf of the defendant was also complete. At that stage, the petition was filed on behalf of the plaintiff on 22.06.2015 seeking amendment in the plaint. The plaintiff's prayer for



amendment included the incorporation of the relief for eviction against defendant nos.1 and 2 on the ground of default of payment of rent and further the plaintiff also prayed to implead the Government of Bihar through the Collector, Siwan and Anchal Pdadhikari, Bhagwanpur as party-respondents. The plaintiff also sought for recovery of arrears of rent from defendant nos.1 and 2.

The reasons assigned by the plaintiff for praying for amendment, at the late stage of the suit, is only that after the change of Advocate, the plaintiff has been advised to seek the aforesaid amendments. The learned Court below, after considering the facts and circumstances of the case, has rightly come to the conclusion that the prayer for amendment, as made, cannot be allowed. It is well settled that an amendment leading to *de novo* trial of the suit and changing the nature and scope of the suit, cannot be allowed.

In this factual background, this Court is not inclined to exercise its jurisdiction under Article-227 of the Constitution to interdict the impugned order.

Accordingly, this writ application is dismissed. The learned Court below is directed to dispose of the suit expeditiously.

(V. Nath, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.05.2017
Transmission Date	16.05.2017

