

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1382 of 2016**

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Sheo Shankar Prasad Singh, son of Late Rambriksh Singh, resident of
Mohalla-Jai Prakash Nagar, Karma Road, Aurangabad

... .. Appellant/s

Versus

1. M/s Shakti Modern Rice Mill , A Partnership Firm at village- G.T.Road,
Dadhapi, District-Aurangabad, through Mahendra Prasad, Managing Parter
2. Mahendra Prasad, S/o Gudani Prasad resident of village- Ors, P. S.
Ranbahiri, District Aurangabad, Managing Partner of Plaintiff No.1.
3. Awadesh Prasad Singh, Son of Kamla Prasad Singh, resident of village
Bahlela, P.O. Dadhapi, P.S. Madanpur, District-Aurangabad.

..... Plaintiffs/Respondent Ist Set

4. Bihar State Financhail Corporation, Fraser Road, Patna
5. Managing Director, Bihar State Financial Corporation, Fraser Road, Patna
6. Branch Manager, Bihar State Financial Corporation Magadh Branch Office,
Bari Jail Road, Gaya.
7. Branch Manager, Bihar State Financial Corporation, Sheo Chauk,
Aurangabad

..... Defendant No.6/Respondent 3rd Set

8. Amit Kumar Singh of Sheo Shankar Prasad Singh, resident of Mohalla-Jai
Prakash Nagar, Karma Road, Aurangabad

...../. Defendant No.6/Respondent 2nd Set

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Jitendra Kishore Verma
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

- 4 04-10-2017 1. The petitioner is aggrieved by an order, dated
31.08.2016, passed by the learned Sub-Judge-V, Aurangabad in
Title Suit No. 208 of 1996, whereby plaintiffs/Respondents
application under Order 6 Rule 17 of the Code of Civil
Procedure, 1908 (hereinafter referred to as the Code) for
amendment in the plaint has been allowed. The plaintiff wanted
substitution of the date '14.10.1989' in place of '19.02.1994'



mentioned in Sub para-2 of Paragraph 12 of the plaint, which has been allowed by the Court below.

2. Learned counsel for the petitioner, assailing the impugned order has submitted that the sole purpose for seeking amendment by the plaintiffs/respondent Nos. 1 to 3 was to delay the trial. He contends that the trial before the Court below is at the stage of argument. Earlier also the said respondents had filed application seeking amendment which was rejected by the Court below by an order which was not interfered subsequently by this Court. He further submits that on the basis of a sketchy application under Order 6 Rule 17 of the Code, without explaining at all the delay in seeking such amendment, the amendment has been allowed by the Court below, which is going to cause serious prejudice to the petitioner as the trial will be unnecessarily delayed. According to him, the entire trial has proceeded with 19.02.1994 as the date when the boundary wall of the premises in question had fallen. He has also submitted that the said respondents did not even say in the application seeking amendment as regards necessity for such amendment for just decision of the case.

3. Learned counsel appearing on behalf of the respondents, on the other hand, justifying the impugned order has submitted



that the plaintiffs merely wanted to correct a typographical error, which had occurred in the plaint. He has submitted that such amendment was required because of an inspection report submitted by the Bihar State Financial Corporation during the trial of the suit.

4. After having considered rival submissions on behalf of the parties, at least one thing is evident that there is nothing to suggest either in the impugned order or in the counter affidavit filed on behalf of the answering respondents as to what was the necessity for seeking such amendment in the plaint. It is settled principle unless it is imperative to amend pleadings for the purpose of just decision of the case, an application for amendment should not be entertained that too, at such belated stage without any explanation. The suit was filed in the year 1996. In that view of the matter, the impugned order requires interference.

5. This application is, accordingly, allowed. The impugned order is set aside.

6. The Court below is directed to proceed for expeditious disposal of the suit keeping in mind the fact that in May, 2016, there is direction by the learned District Judge, Aurangabad to dispose of the suit within one month.



- 7. This application is, accordingly, allowed.
- 8. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

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