

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.354 of 2017

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Sri Yagbali Sharma, S/o Late Ruderadeo Sharma, R/o Mohalla- Lakhibagh, P.S.-
Mofassil, Dist- Gaya.

.... Appellant/s

Versus

1. Sri Satrudhan Sharma @ Mantu Singh, S/o Late Ramnarain Pd. Singh, R/o
Village Karouna, P.S.- Jehanabad, Dist- Jehanabad.
2. Sri Bablu Kumar, S/o Sri Sutichan Sharma, R/o Village- Mursa, P.S.- Kakoo,
Dist- Jehanabad.
3. Sri Naveen Kumar, S/o Sri Nawal Kishore Sharma, R/o Village- P.S.-
Hulasganj, Dist- Jehanabad.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Dinu Kumar, Adv.
Mr. Arvind Kumar Sharma, Adv.
Mr. Deepak Kumar, Adv.
Mrs. Ritika Rani, Adv.
Mr. Kumari Neha, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 28-02-2017

Heard Mr. Dinu Kumar, learned counsel for the petitioner.

By the impugned order the prayer of the plaintiff-petitioner
for amendment in the plaint has been turned down.

After considering the submissions and perusal of the
impugned order as well as the materials on record, it is transparent
that the suit has been filed by the plaintiff-petitioner for specific
performance of contract. After the trial has commenced and some
witnesses on behalf of the plaintiff have been examined, a petition for



amendment seeking correction in paragraph-9 of the plaint was filed on behalf of the plaintiff. The amendment petition has been brought on record as annexure-3 to this application. From the perusal of the petition for amendment as well as the impugned order, it transpires that the plaintiff has earlier stated in the plaint that the plaintiff has been put in possession over the suit land by the defendants in part performance of a contract but by the proposed amendment, the said statement has been sought to be deleted from the plaint and a new case has been sought to be introduced that the plaintiff was allowed to “fill up” the ditch. The learned court below has rightly concluded that the amendment as proposed would deprive valuable right accrued to the defendants. Further, after taking into notice the well settled principles laid as well as the amended provision of Order 6 Rule 17 the prayer for amendment as made has been refused on legally valid reasons.

In the aforesaid facts and circumstances, this Court is not inclined to exercise its jurisdiction under Article 227 of the Constitution of India to interdict the impugned order.

The application is, accordingly, dismissed.

(V. Nath, J)

Devendra/-

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