

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No. 1336 of 2017

=====

Mohan Prasad Keshari, Son of Late Chamari Ram, R/o Mohallah Purani Godam,
Tekari Road, P.S. Kotwali, Town & District-Gaya, Pin Code – 823001 (Bihar).

.... Petitioner

Versus

1. Lord Shivjee Installed in the Thakurbari situated at Mohallah Purani Godam, through its sebaite Radha Krishna Dwivedi, Shyama Charan Dwivedi, Mannu Dwivedi, all are Sons of Late Bageshwari Prasad Dwivedi @ Jawahar Lal Dwivedi, R/o Mohallah Purani Godam, P.S. Kotwali, Town & District-Gaya – 823001 (Bihar).
2. Chandan Keshari, Son of Mohan Prasad Keshari, R/o Mohallah Purani Godam, Tekari Road, P.S. Kotwali, Town & District Gaya, Pin Code – 823001 (Bihar).
3. Most. Manorma Devi, Wife of Late Radhey Shyam Naveen, R/o Mohallah Dhamin Tola, Purani Godam Lane, P.S. Kotwali, Town & District-Gaya, Pin Code – 823001 (Bihar).

.... Respondent/s

=====

Appearance :

For the Petitioner : Mr. Abhishek, Adv.

For the Respondent/s :

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 23-08-2017

In an application, under Article 227 of the
Constitution of India, the petitioner seeks setting-aside of an



order, dated 14.06.2017, passed by learned Sub-Judge-XI, Gaya, in Title Suit No. 63 of 2015, whereby, he has allowed a petition filed on behalf of the plaintiff-respondent No. 1, under Order 6 Rule 17 of the Code of Civil Procedure (*in short 'Code'*) and has allowed amendment in plaint after commencement of trial.

2. Learned counsel, appearing on behalf of the petitioner, has submitted, referring to the language of Order 6 Rule 17 of the Code, that without recording satisfaction to the effect that the plaintiff, despite exercising due diligence, could not have raised the matter before commencement of the trial; the court below has allowed the amendment petition, in breach of the said provision. He submits that finding of the court below is rather contrary and to the effect that the plaintiff had not exercised due diligence, as is evident from the order itself, yet the Court allowed the amendment plea.

3. I am not inclined to interfere with the impugned order, exercising jurisdiction under Article 227 of the Constitution of India, as I do not find it to be a fit case for such exercise of power in a case where amendment has been allowed after imposing cost on the plaintiff. There is no plea that the amendment allowed will change the nature of the suit. No case of



grave error resulting into miscarriage of justice is made out.

4. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.08.2017
Transmission Date	N/A

