

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21465 of 2013

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Mirja Rajauddin Baig & Ors

.... Petitioner/s

Versus

Mirja Sanaullah Baig & Anr

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 20-09-2017 Heard learned counsel, Mr. Shailendra Kumar Jha for
the petitioners.

2. This writ application under Article 227 of the Constitution of India has been filed by the defendants-petitioners against the order dated 25.02.2013 passed by learned Subordinate Judge-I, Darbhanga in Title Suit No.170 of 2007 whereby the learned court below has allowed the amendment application filed by the plaintiffs-respondents.

3. It appears that partition suit was filed by the plaintiffs-respondents. The defendants filed contesting written statement. The plaintiffs examined seven witnesses in the case and then filed the amendment application praying for amendment in the plaint. The amendment application is Annexure-1 to the writ application. By the impugned order the learned court below has allowed the amendment application although it was objected by



the defendants.

4. The learned counsel for the petitioners submitted that although the defendants raised the ground that the suit plots mentioned by the plaintiffs are vague and no correct numbers have been given, the plaintiffs did not file amendment application. The amendment application has been filed only after commencement of trial and even after conclusion of the evidence of the plaintiffs. The court below did not consider this aspect of the matter and has wrongly allowed the amendment application.

5. It is admitted fact that the defendants are yet to start their evidence. From perusal of Annexure-1 (amendment application), it appears that there were typing mistakes in plot numbers, khata number etc. and the plaintiffs sought to correct those plot numbers in the plaint by filing amendment application. In such view of the matter, when the amendment sought for is not with respect to the facts but with respect to the typing mistakes, no prejudice will be caused to the defendants, particularly when the defendants are yet to start their evidence. If the amendment is not allowed then in view of submission of learned counsel that the suit properties are not properly described, it may lead to multiplicity of proceeding. In my opinion, the amendment sought for by the plaintiffs relates to correct the typing mistake and is, therefore,



essential for just decision of the controversies between the parties.

6. Thus, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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