

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22417 of 2014

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Harbansh Singh & Ors

.... Petitioner/s

Versus

Lallu Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akhouri Vipin Bihari Shrivastava

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 18-09-2017 Heard learned counsel Mr. Akhouri Vipin Bihari
Shrivastava for the petitioner.

2. Perused the impugned order dated 10.06.2014
passed by Subordinate Judge-VII, Sasaram in Title Suit No.242 of
2006 whereby the learned court below rejected the amendment
application filed by the defendants-petitioners for amendment in
the written statement.

3. From perusal of the impugned order, it appears
that admittedly the evidence of the plaintiffs has already been
closed and at this stage the amendment application was filed by
the defendants-petitioners seeking amendment in the written
statement introducing new facts in the case. The court below
rejected the said application on the ground that the evidence of the



plaintiffs has already been closed.

4. The Hon'ble Supreme Court in the case of **Rajkumar Guruwara Vs. S.K. Sarwagi and Company Private Ltd. & Anr. (2008) 14 Supreme Court Cases 364** has held that **in case of amendment after commencement of trial, particularly after completion of the evidence, the question of prejudice to the opposite party may arise in such an event, it is incumbent on the part of the Court to satisfy conditions prescribed in the proviso to Order VI Rule 17 CPC. If the parties to the proceedings are able to satisfy the Court that in spite of due diligence they could not raise the issue before commencement of trial and the Court is satisfied with their explanation, amendment can be allowed even after commencement of the trial and not otherwise.** In the present case, from perusal of the amendment application, it appears that the only explanation for delay given by the petitioners is that inadvertently the amendment sought for could not be brought. In my opinion, this 'inadvertently' is not a ground which can be said that in spite of due diligence the amendment could not have been brought earlier prior to the commencement of the trial.

5. In view of the factual and legal position, I do not



find any reason to interfere with the impugned order in exercise of supervisory jurisdiction. Thus, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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