

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.386 of 2016

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Ghanshyam Singh son of Late Sitaram Singh, resident of village- Eshrain Kala,
P.S.- Kumar Khand, District- Madhepura

.... Petitioner.

Versus

1. Hari Shankar Singh
2. Uma Shankar Singh sons of Late Bhagwat Singh Both resident of village-
Eshrain Kala, P.S.- Kumar Khand, District- Madhepura
3. Parmanand Singh
4. Ramanand Singh sons of Late Anuplal Singh Both resident of village- Eshrain
Kala, P.S.- Kumar Khand, District- Madhepura
5. Chandra Kala Devi wife of Birendra Singh and daughter of Late Jageshwar
Singh, residents of village- Kopa Barahi, P.S. Sonbarsa, District- Saharsa
6. Surya Kala Dei wife of Khoa Singh and daughter of Late Jageshwar Singh,
resident of village- Hingwa, P.S.- Bhargama, District- Araria
7. Luv Kumar Singh
8. Tarun Singh sons of Late Tileshwar Singh
9. Dilip Kumar Singh
10. Amrendra Kumar Singh
11. Dinesh Kumar Singh
12. Kartik Singh
13. Ganpati Singh Son of Late Sadanand Singh
14. Chandra Kishore Singh son of Late Sitaram Singh
15. Radhe Shyam Singh, son of Late Durga Prasad Singh No. 7 to 15 are resident of
village- Eshrain Kala, P.S.- Kumar Khand, District- Madhepura

.... Respondents

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Appearance :

For the Appellant/s : Mr. Kameshwar Prasad Singh, Adv.

For the Respondent/s : Mr. Sunil Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 06-03-2017

Heard the learned counsel for the parties.

By the impugned order, the learned court below has
turned down the prayer for amendment in the written statement as
made by the defendant-petitioner solely on the ground that the
amendment has been filed belatedly.



After considering the submissions and perusal of the materials on record, it is evident that the fact has been accepted by the learned counsel for the parties that the trial has still not commenced in the suit. It has been submitted by the learned counsel for the petitioner that the trial has not commenced when the prayer for amendment was made. It has been further elaborated that only the issues were framed at the stage when the amendment was prayed for in the written statement. It is also evident that a counter claim has been raised by the defendants. In view of the fact that the trial has not commenced in the suit and after considering the facts and circumstances in the present case, this Court is inclined to allow the prayer for amendment as made by the petitioner.

Accordingly, this application is allowed and the impugned order is quashed and the prayer for amendment is allowed.

It is, however, further also directed that the plaintiff-respondent shall be at liberty to file additional pleading to the counter claim as filed by the petitioner in accordance with law.

(V. Nath, J)

Nitesh/-

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