

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.1060 of 2017**

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Sri Shankar Lal Prajapati & Anr

.... .... Appellant/s

Versus

Smt. Ram Pyari Devi & Ors

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Abinash Kumar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI**

**SHARAN SINGH**

**ORAL ORDER**

2      30-08-2017

The petitioners, aggrieved by an order dated 26.05.2017, passed in Title (Partition) Suit No. 377 of 1997, whereby the court below has rejected an application filed by the petitioner under Order 6 Rule 17 of the Code of Civil Procedure, seeking amendment in the plaint, has filed the present application.

Learned counsel for the petitioners has submitted that the nature of the suit has been described in the plaint is title (partition) suit. Though, the suit has been filed by the petitioners for declaration of title, the petitioners sought amendment in the plaint in order to incorporate the additional relief for passing the decree for specific performance of contract and to direct the defendants to execute registered sale deed with respect to the suit land.

From the impugned order, I find that the petitioners, who were plaintiffs before the court below, have sought for



declaration of their right, title, interest and possession over the suit property and for delivery of possession to the plaintiffs, if the plaintiffs are found to be dispossessed during the pendency of the suit.

The court below has rightly rejected the amendment petition for more than one reasons. Firstly, the court below noticed that the suit was filed in the year 1997 for declaration of title and in the year 2016, the petitioner proposed to amend the relief for seeking decree for specific performance of contract and directing the defendants to execute registered sale deed. Secondly, the court below has rightly recorded that the said proposed relief by way of amendment amounts to change of the very nature of the suit. The conduct of the parties have also been noticed by the court below in the impugned order, which has rightly not been approved. I was inclined to impose cost while dismissing the application, but I have restrained myself from doing so for the present.

This application is dismissed.

**(Chakradhari Sharan Singh, J.)**

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