

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.307 of 2017**

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Birja Singh @ Brijnandan Singh & Anr

.... Appellant/s

Versus

Keshwar Sao

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bhola Kumar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

- 2 20-02-2017 **1.** Heard the learned counsel, Mr. Alok Kumar Sinha, for the petitioner.
- 2.** Perused the impugned order dated 04.01.2017 passed by learned Munsif, Civil Court, Aurangabad in Title Suit No.80 of 2007 whereby the learned Munsif has allowed the amendment application filed by the plaintiff and added some property in the schedule of the plaint.
- 3.** The grievance of the petitioner is that so far the property which are being added as subject matter of the suit by way of amendment are concerned, title of the petitioner has already been declared in Title Appeal No.25 of 2001 and Second Appeal was also dismissed, therefore, the Court below should have considered this aspect of the mater and should have rejected the amendment application.



4. So far this question which is being raised by the learned senior counsel for the petitioner is concerned, it relates to the merit of the case. Whether title has been decided or not with respect to that property in earlier suit is a matter of evidence. At the time of hearing the amendment application, the Court should not prejudge the falsity or otherwise of the amendment sought for.

5. So far the question that similar prayer was earlier rejected is concerned, in my opinion, now amendment sought for by the plaintiff is necessary for determining the real controversy between the parties, the Courts have the jurisdiction to allow the amendment at any stage.

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

(Mungeshwar Sahoo, J)

Sanjeev/-

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