IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.262 of 2017

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1. Sahdeo Patel @ Sahdeo Raut, Son of Ramcharitar Raut.
2. Dharmendra Kumar, Son of Sahdeo Patel.
3. Gajendra Kumar, Son of Sahdeo Patel, All three are Resident of Mohalla- Andarkila, in front of Town High School, Sadhbhawana Path, Police Station- Hajipur Town, District- Vaishali.
4. Sanjay Kumar, Son of Late Bishwanath Singh.
5. Raju Kumar, Son of Late Bishwanath Singh.
6. Manish Kumar, son of Late Birendra Singh. Petitioner 4, 5 and 6 are Resident of Mohalla- Uttari Andarkila, Police Station- Hajipur Town, District- Vaishali.

.... Appellant/s

Versus

1. Umesh Kumar.
2. Ramesh Kumar. Both sons of Munishwar Singh, Resident of Mohalla- Bagmali, Post Office- Hajipur Police Station- Hajipur Town, District- Vaishali.
3. Shri Kant Sharan Das, Son of Late Ramanand Das, Resident of Village- Patepur, Police Station- Patepur, Police Station- Hajipur, at present - Kanuhara Ghat, Post Office- Hajipur, Police Station- Hajipur (Town), District- Vaishali.

.... Respondent/s

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Appearance :
For the Appellant/s : Mr. Rajeev Ranjan No.Ii
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 16-02-2017 Heard learned counsel for the petitioner.

Perused the impugned order dated 19.10.2016 passed by Sub-Judge II, Vaishali at Hajipur in Title Suit No. 520 of 2014 whereby the court below has allowed the amendment application filed by the plaintiff-husband on payment of cost of Rs. 400/-.

The admitted position as submitted by the learned counsel for the petitioner is that only issues have been framed.

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Evidence has not yet started.

Hon'ble Supreme Court in the case of **2008 Vol. 14 SC Page 364 Rajkumar Guruwara Vs. S.K. Sarawagi** has held that a pre-trial amendment could be allowed liberally as the opposite party would not be prejudiced because he will have an opportunity of meeting the amendment sought to be made. However, in case of amendments after the commencement of trial, particularly, after completion of the evidence the question of produce to the opposite party may arise and in such an event, it is prejudice on the part of the court to satisfy the conditions prescribed in the proviso to order 6 Rule 17 CPC. In the present case only issues have been framed. Since evidence has not yet started therefore, there is no question of any prejudicee to the petitioner arises.

The Hon'ble Supreme Court in the case of **2016 Vol. 8 SC page 332 N.C Hanumanthappa Vs. H.B. Shivakumar** has held that all the amendments ought to be allowed which satisfy the two conditions: (a) of not working in justice to the other side, and (b) of being necessary for the purpose of determining the real questions in controversy between the parties

In the present case, therefore, in no case it can be said that the court below has exercised the jurisdiction not vested by

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the law or that the court has no jurisdiction to allow the amendment application and prejudice would be caused to the defendant. As such, I find no reason to interfere with the impugned order in exercise of supervisory jurisdiction.

Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

sushma/-

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