

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.908 of 2016**

=====

1. Bishundeo Yadav son of Late Lochan Yadav resident of village -
Orabagicha, P.O. Orabagicha, Police Station - Dharhara, District - Munger.

.... Petitioner/s

Versus

1. Bechan Yadav son of Gobind Yadav resident of village - Orabagicha,
P.O. Orabagicha, Police Station - Dharhara, District - Munger.

--- Defendant 1st Party- Opp. Party

2. M.P. Yadav son of Late Jaleshwar Yadav

3. Chhotu Yadav son of Late Jaleshwar Yadav Both residents of village -
Orabagicha, P.O. Orabagicha, Police Station - Dharhara, District - Munger.

---Defendant 2nd Party- Opp. Parties

4. Subodh Yadav

5. Rajesh Yadav Both sons of Late Jaleshwar Yadav resident of village -
Orabagicha, P.O. Orabagicha, Police Station - Dharhara, District - Munger.

--(Defendant 3rd party-Opp. Parties)

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ratnakar Ambastha

For the Respondent/s : Mr.

=====

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**

ORAL ORDER

4 07-12-2017

Heard both sides.

The petitioner-plaintiff filed this civil miscellaneous petition against the order dated 24.05.2016 passed by Sub Judge II, Munger in Title Suit No.157 of 2009 against the order allowing the amendment petition filed by defendants 1st party-respondent No.1.

The plaintiff-petitioner is the purchaser of 14 ¼ dhurs land from Subodh Yadav and Rajesh Yadav in the year 2009. The defendants 1st set, Bechan Yadav purchased 28 ½ dhurs land from



M.P.Yadav and Chhotu Yadav in the year 2005. Admittedly, defendants 2nd set and defendants 3rd set are own brothers. The defendant No.1 brought the amendment petition that M.P.Yadav and Chhotu Yadav got the entire land in their share in family arrangement whereas the plaintiff contested that all four brothers got equal share in the disputed land and, therefore, by amendment, defendants 1st set wanted to bring new facts after examination of all the witnesses of the plaintiff and examination of some of the witnesses of defendants 1st set.

The learned counsel for the petitioner submits that by introducing new amendment, the nature of suit will change. It is further submitted that the amendment has been brought at a very belated stage which is against the proviso of Order VI Rule 17 C.P.C.

On the other hand, the learned counsel for the respondent No.1 submits that the amendment would not change the nature of the suit. The crux of the dispute is that the suit land is the ancestral property of all four brothers defendants 2nd set and defendants 3rd set but in mutual partition the defendants 2nd set got the entire land and defendants 3rd set got share in other land. Therefore, the amendment will not change the actual nature of the suit.



Having considered the submissions, I find that the defendants 1st set has brought the amendment petition only elaborating the family arrangement made among four brothers out of whom defendants 1st set purchased the land from two brothers defendant 2nd set.

The principle of amendment is that if any fact is brought in order to decide the crux of the dispute, the same should be allowed without taking into consideration the delay as has also been held in (2015) 10 Supreme Court Cases 203(Ram Nirajan Kajaria vs. Sheo Prakash Kajaria and Ors.).

Therefore, I find no jurisdictional error in the order impugned. Accordingly, this civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

Saurabh/-

U		T	
---	--	---	--

