

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1149 of 2016**

=====

1. Vijay Kumar Singh son of Late Bhagwat Prasad Singh resident of Village- Nipaniya, P.S.- Phulwaria, P.O.- Barouni, District- Begusarai.

.... Petitioner/s

Versus

1. Koushal Kishore Choudhary
2. Kailash Choudhary
3. Subhash Choudhary
4. Rajesh Choudhary

All sons of Late Ram Narayan Choudhary resident of village- Damodarpur, P.O.- Pasopur, P.S.- Bhagwanpur, Pargana Halpur, District- Begusarai.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Roshan Kumar Mishra

For the Respondent/s : Mr.

=====

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

ORAL ORDER

6 21-12-2017 Heard both sides.

The petitioner filed this civil miscellaneous petition against the order dated 22.07.2016 passed in Title Suit No.359 of 2015 by which the learned Sub Judge V, Begusarai rejected the amendment petition of the petitioner.

Petitioner is the plaintiff of Title Suit No.359 of 2015. petitioner filed amendment petition for correction of some typographical error crept in different paragraphs of the plaint but the learned Sub Judge has rejected the petition for amendment on the ground that the amendment petition is filed at very belated stage and the amendment sought for would change the nature of



the suit but from perusal of Annexure 2, the amendment petition, it appears that the petitioner wants to delete the number 3628 and 3623 from para 6 of the plaint. Similarly in para 7 of the plaint, the figure '01' be corrected as '09' and the figure '04' be corrected as '14' and the Annexure 2 be corrected as Annexure 3. Petitioner further sought correction of date 01.11.2008 as 01.08.2011 in para 6 of the plaint. From the amendment petition itself, it appears that all the amendments required to be incorporated are of formal in nature and the same would not at all change the nature of the suit.

The principle with regard to dealing with the amendment petition is that the amendment at any stage should be allowed, if the same would not bar the relief under any provision of law or by such amendment any admission is withdrawn.

On bare perusal of the amendment petition and the order impugned, I find that the learned Sub Judge has committed jurisdictional error holding that the amendment sought for would change the nature of the suit whereas from perusal of the amendment petition itself, it appears that the amendment is of very formal nature and the plaintiff sought correction of certain words and figures in the plaint and that amendment sought for would not change the nature of the suit.

Accordingly, the order dated 22.07.2016 passed by the



learned Sub Judge 5th, Begusarai in Title Suit No.359 of 2015 is not sustainable and thus, the same is set aside. The Civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

Saurabh/-

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

