

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1306 of 2017

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1. Lallan Yadav Son of Rangi Yadav resident of village - Dhanesh Chhapra,
P.S. Janta Bazar, District - Saran, presently residing at village - Dayalpur
Pachhim Tola, P.S. Janta Bazar, District - Saran.

.... Petitioner/s

Versus

1. Ram Lakhan Rai @ Ram Laxan Rai Son of Late Akshay Rai resident of
Village & P.O. Dayalpur Pachhim Tola, P.S. Janta Bazar, District - Siwan.
2. Raja Ram Rai Son of Late Ram Ekbal Rai
3. Rajendra Rai
4. Saheb Rai
5. Kamal Deo Rai All sons of Late Parikshan Rai
6. Ashok Rai Son of Late Chandrika Rai
7. Balmiki Rai Son of Late Ram Datt Rai
8. Shankar Rai
9. Shri Bhagwan Rai
10. Janardan Rai All Sons of Late Tuli Rai
11. Mangal Rai
12. Hirdya Rai
13. Lakha Pati Devi
14. Panpati Devi
15. Sunara Pati Devi All Sons and Daughters are Late Baij Nath Rai
16. Gorakh Rai S/o Late Bhola Rai
17. Dular Rai
18. Nagendra Rai
19. Harendra Rai All Sons of Late Mukhram Rai
20. Ramayan Rai
21. Binayak Rai
22. Kailash Rai All Sons of Late Satnarayan Rai
23. Raj Kishore Rai
24. Ramjee Rai Both sons of Radha Kishun Rai
25. Ram Surat Rai
26. Suresh Rai
27. Janardan Rai All sons of Vishwanath Rai
28. Surendra Rai
29. Birendra Rai
30. Satendra Rai All sons of Late Shivnath Rai
31. Shiv Mangal Rai
32. Prabhu Rai Both sons of Late Meen Lal Rai All defendants No. 2 to 32
are residents of Village & P.O. Dayalpur Pachhim Tola, P.S. Janta Bazar,
District Saran.
33. Meghnath Rai Son of Late Ram Chandra Rai resident of Village -
Dayalpur, Tola Sakuar, P.S. Baniyapur, Janta Bazar, District - Saran.
34. Rabindra Rai Son of Late Rajballav Rai
35. Mohan Rai Both Sons of Late Liyut Rai Both residents of Village -
Mauja Phubri Khurd, P.S. Ekma, P.O. Manikpur, District - Saran.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Singh

For the Respondent/s : Mr.

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

ORAL ORDER

2 09-04-2018 Heard learned counsel for the petitioner.

Petitioner-defendant No.32 filed the petition under Order VI Rule 17 C.P.C. for amendment of written statement and the same was rejected on the ground that the amendment sought for cannot be allowed in view of the proviso of Order VI Rule 17 C.P.C.

The learned counsel for the petitioner submits that petitioner is the sole contesting defendant in the suit. The respondent at the outset did not make the petitioner defendant in the case thereafter the petitioner filed petition under Order I Rule 10(2) that Ram Dayal had not died issueless rather he was married with Nanhki the daughter of Lal Bihari Raut. Nanhki gave birth to Maracho Devi. Maracho Devi was married with Rangi Yadav and petitioner was born out of the wedlock. Maracho inherited the property of Ram Dayal and the petitioner inherited the property of Ram Dayal through his mother. Petitioner filed petition for amendment that after death of Ram Dayal his wife Nanhki survived and she died in the year 1970 leaving behind her daughter, Maracho Devi but the petitioner has failed to bring the



facts that why he did not bring about the aforesaid facts in amendment before start of the hearing of the suit. There is no explanation to this effect in the entire amendment petition. Proviso of Order VI Rule 17 C.P.C. says that after start of hearing of the suit, the amendment can be brought about only when the plaintiff or the defendant seeking amendment is able to show that after due diligence, he could not find out the fact sought to be amended but there is no such material on record. Therefore, I find that learned Sub Judge has rightly dismissed the amendment petition of the petitioner.

Accordingly, this civil miscellaneous petition is dismissed.

(Prabhat Kumar Jha, J)

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