

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1242 of 2018

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1. Bindeshwar Rai, S/o Dhanautar Rai, Resident of Village- Mallikpur, P.S.- Raghapur, P.O.- Mohanpur, District- Vaishali.

.... Appellant/s

Versus

1. Achidanand Rai,
2. Shyam Ray,
3. Rakesh Kumar,
4. Nawal Kishore Rai, All S/o Late Damodar Rai,
5. Nagendra Rai,
6. Mukesh Rai, Both S/o Late Jawahar Rai, All are resident of Village- Mallikpur, P.O.- Raghapur, P.S.- Raghapur, Dist- Vaishali.
7. Sheo Shankar Rai,
8. Ashok Rai, Both Sons of Late Danautar Rai, Both resident of Village- Mallikpur, P.O. & P.S.- Raghapur, District- Vaishali.
9. Nirmala Devi, D/o Late Dayanand Rai, Resident of Village- Beyapur, P.S.- Maner, District- Patna.
10. Deo Sunder Devi, W/o Late Chandradeep Rai, Resident of Village- Purakasara, P.O.- Kachchi Dargah, P.S.- Didarganj, District- Patna.
11. Parmanand Rai, S/o Late Damodar Rai, Resident of Village- Mallikpur, P.S.- Raghapur, P.O.- Mohanpur, District- Vaishali.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Chandan Kumar Verma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

2 01-10-2018

Heard the learned counsel for the petitioner.

The petitioner has filed this Civil Misc. petition against the order dated 21.06.2018 passed in Title Suit No. 1072 of 2016 whereby the learned Sub Judge-IV, Vaishali at Hajipur allowed the amendment petition of the plaintiffs.

The petitioner is the defendant 1st set. The plaintiffs wanted to insert in the plaint that ancestor of the plaintiffs



compromised Title Suit No. 14 of 1985 and plaintiffs wanted to insert this fact in the plaint and the same was allowed.

The learned counsel for the petitioner submits that the judgement and decree passed in Title Suit No. 14 of 1985 suffers from res judicata but the learned court below did not give any finding on this point and allowed the amendment petition.

Admittedly the suit is pending for appearance of many of the defendants. At the time of amendment of plaint the court is not at all required to deal with the merit of the amendment sought for and, thus, I find that the learned Sub Judge has rightly allowed the amendment petition. Accordingly, I do not find any merit in this Civil Misc. petition and the same is dismissed.

(Prabhat Kumar Jha, J)

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