

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12010 of 2014

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Masoom Habib son of Late Abdul Habib Resident of Mohalla - Barahpura, P.S.
Ishak Chak, District - Bhagalpur

.... Petitioner/s

Versus

1. Bibi Sahida Parveen wife of Late Manjoor Habib
2. Jawed Manjoor
3. Sahid Manjoor
4. Rashid Manjoor
5. Dinad Manjoor Nos. 2 to 5 are of Late Manjoor Habib
6. Most. Bibi Naiyan Ara wife of Late Mansoor Habib All residents of Mahalla -
Barahpura, Police Station - Ishakchak, District - Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. J.S.Arora, Sr. Advocate Mr. Manoj Kumar, Advocate Miss Aishwarya, Advocate Mr. Gaurav Pratap, Advocate
For the Respondent/s	:	Mr. Raghib Ahsan, Sr. Advocate Mr. Najmul Hoda, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 14-08-2018

Petitioner before this Court is plaintiff of Title Suit No.101 of 2004 pending in the Court of Munsif-II, Bhagalpur. He has filed the present writ application for quashing the order dated 06.03.2014 passed by learned court below whereby and whereunder his amendment petition filed under Order 6 Rule 17 read with Section 151 of CPC was rejected.

2. Heard learned counsel for the petitioner and the respondents.

3. The petitioner before this Court has filed the aforesaid



title suit for adjudication and declaration of his right to use his house and Sahan freely without any disturbance in schedule-A land pertaining to Khata No.1110, Khesra No.2347 area 0.370 acres. The petitioner further sought relief to restrain the defendants permanently from causing disturbance in the privacy of the petitioner and also to direct them to close the widows from the side of plaintiff's house. It appears that after appearance of defendants, the trial has commenced and as many as four witnesses have been examined. During trial the petitioner filed an amendment petition on 13.08.2013 for amending the plaint with respect to area mentioned in para-1 and schedule-A of the plaint. He wants to insert the figure 2655 sq.feet in para-1 of the plaint. The plaintiff has mentioned the total area of suit land as 0.370 hectors and in order to clarify the nature of his title and also to explain the mode acquisition, he wants to add one more paragraph no.1-b to show that the mother of the plaintiff had purchased land measuring 142 ft. long and 12 ft. wide equal to 1½ katha, i.e., 1704 sq.ft. on 06.12.1939 by virtue of registered sale deed from one Moulvi Abdul Mojib son of late Abdul Gaffar who came in possession over the same. The plaintiff further wants to insert the fact that during recent municipal survey, the land purchased by his mother was recorded in his own land which was purchased by him in the year 1974 from his father Abdul Habib. The plaintiff has stated that he had



no knowledge about the said purchased land of his mother and he recently came to know about the document. By the said amendment, the total area as given in schedule-A of the plaint remains the same, i.e., 0.370 hector. He has clarified as to how the said plot has been surveyed on the basis of purchase made by him in the year 1974 and as per registered sale deed dated 06.02.1939 in the name of his mother. The said amendment appears simple in nature and the defendants would not be prejudiced in any way as the area mentioned in schedule-A of the plaint remains intact.

4. For the reasons stated above, the impugned order refusing to amend the plaint is set aside and this writ application is allowed subject to payment of cost of Rs.5,000/- payable by the petitioner to the contesting defendants before the court below. The defendants are given liberty to file additional written statement with respect to amended plaint. It will remain open for the court below to give opportunity to the parties to adduce evidence if required. This application is accordingly allowed.

B.Kr./-

(Sanjay Kumar, J)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.08.2018
Transmission Date	N/A

