

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18219 of 2014

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1. Sri Ram Janki Jee Deities through Narsingh Radha Trust, represented by Sri Narayan Sah (Member) of the Narsingh Radha Trust, son of Late Bihari Sah

2. Kedar Nath Sah, son of Late Baidynath Prasad Sahu, (Secretary), Both are Resident of Mohalla- Chhoti Kalyani Jaitpur Road, Town Muzaffarpur, P.S.- Mithanpura, District- Muzaffarpur.

.... Petitioners

Versus

Bimleshwar Prasad @ Bimal Prasad son of Late Chandeshwar Prasad, resident of Village- Ali Sarai, P.S.- Sakara @ Mohalla- Pankhatoli, P.S.- Kazimohammadpur, District- Muzaffarpur. At present- resident of Mohalla- Chhoti Kalyani Jaitpur Road, Town Muzaffarpur, P.S.- Mithanpur, District- Muzaffarpur.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Pradhan Murli Manohar Prasad, Advocate
Mr. Raju Kumar Goswami, Advocate

For the Respondent : Mr. Upendra Prasad II, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 05-09-2018

This writ application has been filed for quashing the order dated 07.08.2014 passed by learned Subordinate Judge IX, Muzaffarpur in Eviction Suit No.05 of 2007 whereby and whereunder the amendment petition filed by the petitioners to amend the plaint was rejected.

2. Heard learned counsels for the petitioners and the respondent.

3. The petitioners are plaintiffs before the court below. They have filed an eviction suit against the respondent on the ground of default in making payment of rent for the month of April and May



2004. Besides that the petitioners have claimed arrears of rent to the tune of Rs.54,000/-. The petitioners filed an amendment petition to amend the plaint by inserting one more paragraph as paragraph 11-A and adding some fact in paragraph no.13 of the plaint. The learned court below after hearing both sides dismissed the amendment petition against which the present writ application has been filed.

4. On going through the amendment petition and copy of plaint, I find that the suit was filed by the Deity through its office bearers for eviction of the defendant on the ground of default in making payment of rent. The suit was filed in the year 2007. The defendant appeared and filed written statement and when the case was pending for evidence, the petitioners filed an amendment petition. It is said that the members of the committee of plaintiffs in a meeting resolved to make a new temple for the Deity after demolishing the old structure. The petitioners further want to introduce new fact that the suit premises is required by them bona fide and in good faith. The suit was initially filed by seven members of the committee. Out of them, the names of three persons have been expunged from category of plaintiffs and only two members have filed amendment petition. The claim of petitioners for eviction of defendant is purely on the ground of default but by proposed amendment which has been filed after five years of filing of suit, they want to take a plea of bona-fide need for



construction of temple after demolishing the old structure. These amendments certainly would change the nature of the suit as the plaintiffs want to introduce new cause of action on the ground of personal necessity.

5. In view of above discussions, I do not find any merit in this writ application and same is, accordingly, dismissed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.09.2018
Transmission Date	

