

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8859 of 2014

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Srikanti Devi wife of Ram Sagar Singh, resident of Village Domanchak,
P.S. Gopalpur, Post Office - Manoharpur Kachhuara, District Patna.

.... Petitioner

Versus

Dhirendra Kumar S/o Raj Nath Singh Village – Parthu, Police Station -
Punpun (Pipra), District - Patna.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Binod Singh, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

5 22-02-2018 This writ application has been filed for setting aside the order dated 13.01.2014 passed by learned Subordinate Judge-X, Patna in Title Suit No.439 of 2010 whereby and whereunder the amendment petition filed by the petitioner was rejected.

2. Heard learned counsel for the petitioner and perused the record.

3. The petitioner is plaintiff of Title Suit No.439 of 2010. She has filed the aforesaid suit for declaration of her title and confirmation of possession and in alternative for recovery of possession, if she is found out of possession during the pendency of the suit. After filing of the suit, the defendant appeared and denied the title of the plaintiff. The defendant asserted that the land owner executed a registered deed of gift on 25.01.1993 in favour of Shailendra Kumar and others. The donee came in possession over the said land on the basis of two registered deed



of gifts which were executed much earlier to the sale deed of the plaintiff. The plaintiff after getting the knowledge about execution of deed of gift with respect to the land which she had acquired by virtue of two registered sale deeds dated 18.07.1994 and 28.07.1994, immediately filed amendment petition. The court below refused to amend the plaint considering the fact that the deed of gift was executed in the year 1993 and for setting aside/cancellation of deed of gift, the prescribed period of limitation is three years. The amendment petition is barred by law of limitation and so the court below refused to amend the plaint.

4. The contention of learned counsel for the petitioner is that the petitioner had no knowledge about the deed of gift. The petitioner got knowledge about deed of gift from the written statement of the defendant. After getting knowledge, she immediately filed amendment petition and so the amendment is not barred by limitation.

5. It appears that the suit is at initial stage and the matter of limitation would be considered after framing of issues during trial. The amendment appears formal in nature. The plaintiff has explained the reasons for filing amendment petition after such a long delay. The impugned order refusing to amend the plaint is, therefore, set aside and this writ application is allowed.

6. The respondent (defendant) is given liberty to file



additional written statement with respect to amended pleading of the plaintiff, if required.

(Sanjay Kumar, J)

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