

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20038 of 2010

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1. Vinay Kumar Maharaj S/O Late Thakurjee Maharaj R/O Village- Sadipur, Pargana Barai, P.S.+P.O.- Goryakothi, District- Siwan
 2. Arbind Kumar son of Late Thakurjee Maharaj R/O Village- Sadipur, Pargana Barai, P.S.+P.O.- Goryakothi, District- Siwan
 3. Avinash Kumar son of Late Thakurjee Maharaj R/O Village- Sadipur, Pargana Barai, P.S.+P.O.- Goryakothi, District- Siwan
 4. Pankuma Devi, wife of late Thakurjee Maharaj R/O Village- Sadipur, Pargana Barai, P.S.+P.O.- Goryakothi, District- Siwan
 5. Shakuntala Devi, daughter of Late Thakurjee Maharaj R/O Village- Sadipur, Pargana Barai, P.S.+P.O.- Goryakothi, District- Siwan
 6. Abha Devi, daughter of Late Thakurjee Maharaj R/O Village- Sadipur, Pargana Barai, P.S.+P.O.- Goryakothi, District- Siwan

.... Petitioner/s

Versus

1. Anirudh Maharaj Late Shiv Narayan Maharaj R/O Village- Sadipur, Pargana Barai, P.S.+P.O.- Goryakothi, District- Siwan
2. Bikrama Maharaj Late Shiv Narayan Maharaj R/O Village- Sadipur, Pargana Barai, P.S.+P.O.- Goryakothi, District- Siwan
3. Satru Mardan Sharma, son of Late Rajpati Devi resident of village-Dudha Mathia, P.S.Majhwalia, District-West Champaran (Bihar).
4. Anant Sharma, son of Late Rajpati Devi resident of village-Dudha Mathia, P.S.Majhwalia, District-West Champaran (Bihar).
5. Chinta Devi, daughter of Late Rajpati Devi, resident of village-Dudha Mathia, P.S.Majhwalia, District-West Champaran (Bihar).
6. Sunita Devi, son of Late Rajpati Devi, resident of village-Dudha Mathia, P.S.Majhwalia, District-West Champaran (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. CHANDRA KANT, Advocate
Mr. Navin Kumar, Advocate

For the Respondent/s : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 31-10-2018

Petitioners before this Court are defendant in Title
Suit No.356 of 1990 pending in the Court of Additional
Munsif-IX, Siwan. They have filed this application for
quashing the order dated 30.10.2010 whereby and
whereunder the prayer of the respondents (plaintiff) to



incorporate the amendment in the plaint was allowed beyond the statutory period of fourteen days.

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

3. It appears that the respondent nos.1 and 2 filed the aforesaid suit against the defendants for declaration with respect to a sale deed dated 10.12.1990. After filing of written statement, the plaintiff filed an amendment petition on 08.01.2004 for amendment of plaint. The defendant filed rejoinder and after hearing, the learned court below allowed the amendment on 13.08.2010 subject to payment of cost of Rs.500/- to the defendant (petitioners).

The learned counsel for the petitioners submitted that according to provision of order VI rule 17, the plaintiff ought to have incorporated the amendment within 14 days. The plaintiff neither prayed for extension of time for incorporating the amendment nor carried out the said amendment within the statutory period and so the court below has exceeded its jurisdiction in permitting the respondents to incorporate the amendment in the plaint.

4. The learned counsel for the respondents on the



other hand submitted that the amendment was allowed on 13.08.2010 subject to payment of Rs.500/- to the petitioners (defendant) with a liberty to file written statement within 30 days. The case was adjourned to 29.10.2010.

5. The contention of learned counsel for the petitioners is that the plaintiffs tendered the cost amount of Rs.500/- to the defendants but on their refusal they filed a petition before the court below immediately on the following day, i.e., 29.10.2010 praying therein to permit them to deposit Rs.500/- through chalan and so they have not committed any laches deliberately in incorporating the amendment in plaint.

6. Thus, I find that the learned court below has not committed any jurisdictional error in allowing the petitioners to incorporate the amendment in the plaint. This writ application is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02.11.2018
Transmission Date	N/A

