

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20416 of 2014

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Rup Narain Bhagat, Son of Late Raghunath Bhagat, resident of village + PO-
Bocho Balua Bhuadhari, PS- Kundwa, Chainpur, Dist- East Champaran, Bihar.

.... Petitioner

Versus

Jagnarain Sah, son of Late Khobhari Sah, resident of Chisrahia, Bocho, PS- Dhaka,
Dist- East Champaran, Bihar.

.... Respondent

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Appearance :
For the Petitioner : Mr. Shantanu Kumar, Advocate
For the Respondent : Mr. Uma Kant Shukla, Advocate
Mr. Shashi Suman Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 01-11-2018

Petitioner before this court is plaintiff in Title Suit No.1055
of 2012 pending in the court of Subordinate Judge IX, East
Champaran at Motihari. He has filed this writ application for quashing
the order dated 20.08.2014 whereby and whereunder his prayer to
amend the plaint was refused.

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

3. The petitioner has filed the aforesaid suit for declaration
of his title and confirmation of possession over the land mentioned in
Schedule I of the plaint. The claim of plaintiff-petitioner is based on
registered sale deed. The defendant-respondent also claims title on the



basis of sale deed which relates to adjoining plot. The defendant filed written statement whereafter the plaintiff filed the present amendment application. The plaintiff wants to insert one more paragraph by mentioning that during pendency of the suit the defendant has dispossessed him from the suit property and also seeking relief for recovery of possession.

4. The learned counsel for the respondent, on the other hand, submits that trial of the suit has already commenced. After hearing both sides, issues were settled on 14.12.2013 and till 02.07.2014 four witnesses have been examined by the plaintiff (petitioner). The petitioner filed amendment petition at belated stage and so the same is legally not maintainable and the court below has rightly rejected the same.

5. On perusal of plaint, which is annexed with this writ application, I find that the petitioner has already sought relief to this effect that if the plaintiff is found out of possession from the suit property, he be put in possession over the same through the process of the court. This amendment appears formal in nature in view of the fact that the defendant is aware of the case of the plaintiff. Both parties are claiming title and possession over the suit property. The respondent claims possession over the suit property since before.



6. In view above facts the impugned order refusing the amendment is set aside and this writ application is allowed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.11.2018
Transmission Date	

