

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CIVIL MISCELLANEOUS JURISDICTION No.1471 of 2016**

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Rabindra Thakur Son of Late Rajeshwar Thakur, Resident of village- Saidpur,  
P.O. Lagunia, P.S. and Block- Patori, Dist- Samastipur.

... .. Petitioner

Versus

Mantun Jha Son of Late Ram Sharan Jha, Resident of Village- Saidpur, P.O.  
Laguniya, P.S.- Patori, Dist.- Samastipur.

... .. Respondent

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**Appearance :**

For the Appellant/s : Mr. Dhananjai Kumar Singh  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA  
ORAL ORDER**

3      30-11-2018                      Heard the learned counsel for the petitioner. Nobody appears on behalf of the sole respondent although the sole respondent received notice.

Petitioner is the defendant. The petitioner has filed this civil miscellaneous petition against the order dated 19.11.2016, passed by learned Sub-Judge-I, Samastipur in Title Suit No.334 of 2014 by which the learned Sub-Judge rejected the petition of the petitioner for amendment in WS.

Admittedly the plaintiff filed the evidence of one witness on affidavit after fixing the case for hearing but not a single witness of the plaintiff has been examined. The petitioner filed amendment stating some facts in order to make the case clear of the petitioner in WS. The amendment of WS shall be liberally considered than the amendment in the plaint as the



defendant does not seek any relief but the learned court below has without any cogent reason rejected the petition of the petitioner for amendment of WS. The petitioner wanted to state the facts with regard to the lands of Plot No.224 and the litigation between the parties with regard to Plot No.224 as Title Suit No.855 of 2004 before the survey authority and Case No.856 of 2004 with regard to Plot No.223 thus, I find that the learned Sub-Judge has committed jurisdictional error in rejecting the petition of the petitioner for amendment of WS of the petitioner.

Accordingly, the order dated 19.11.2016, passed by learned Sub-Judge-I, Samastipur in Title Suit No.334 of 2014 is set aside. The petition of the petitioner for amendment of WS is allowed and this civil miscellaneous petition is accordingly allowed.

**(Prabhat Kumar Jha, J)**

S.KUMAR/-

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