

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.346 of 2016**

Ravindra Kumar, Son of Badri Prasad, resident of Village- Mai, P.O.- Sonmai,
P.S.- Dhanarua, District- Patna.

... .. Petitioner

Versus

1. Bakhora Prasad Yadav, son of Late Ram Brikchh Yadav
2. Sakunti Devi wife of Bakhora Prasad Yadav
3. Chhotan Yadav son of Bakhora Prasad Yadav
4. Pappu Yadav son of Bakhora Prasad Yadav All resident of Village- Mai, P.O.-
Sonmai, P.S.- Dhanarua, District- Patna.
... ..Respondents/Defendants 1st Set
5. Rajkalia Devi wife of Hardeo Yadav resident of Village- Mai Maner, P.O.-
Borhi, P.S.- Dhanarua, District- Patna.

... .. Respondent 2nd Set/Defendant No.5

Appearance :

For the Appellant/s : Mr. Neeraj Kumar
For the Respondent/s : Mr.

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

Date : 04-09-2018

Heard learned counsel for the petitioner and the learned
counsel for the respondents.

2. The plaintiff is the petitioner. Plaintiff filed this civil
miscellaneous petition against the order dated 06.05.2016 passed by
the learned Sub Judge-IV, Patna in Title Suit No. 385 of 2007 by
which the learned Sub Judge dismissed the petition of the petitioner
for amendment of relief for recovery of possession has been
dismissed.

3. The petitioner-plaintiff filed a suit for declaration of title
and confirmation of possession. The petitioner also sought permanent
injunction restraining the defendants from interfering into the



peaceful possession of the petitioner. The petitioner further sought that the sale deed executed by defendant no. 2 in favour of defendant no. 5 is a nullity and no consideration was passed. The defendant no. 2 had no title over the lands. During the course of argument, the plaintiff filed a petition on 17.12.2015 for amendment of relief and sought further relief for recovery of possession. The respondents-defendants also filed rejoinder but the learned Sub Judge by the impugned order rejected the amendment petition solely on the ground that the same has been at a very belated stage and the amendment will certainly change the nature of the suit.

4. The learned counsel for the petitioner submits that the simple prayer of the petitioner to add relief such as recovery of possession since the plaintiff has been dispossessed from the suit property on 15.12.2015 has been illegally rejected. The plaintiff did not seek any impleadment of new facts. The amendment will neither change the nature of the suit nor is brought on belatedly. Since the petitioner was dispossessed on 15.12.2015 itself, the petitioner filed the amendment petition on 17.12.2015. The court is vested with the power under Order VI Rule 17 that all such amendments which are necessary for determination of the dispute between the parties shall be allowed but the court has committed jurisdictional error by rejecting the amendment petition of the petitioner.



4. On the other hand, the learned counsel for the respondents made all efforts to persuade the Court that the amendment was brought at the very belated stage but I find submissions of the learned counsel for the respondents not at all acceptable. Of course in the suit argument was going on but the petitioner brought the amendment petition for adding relief of recovery of possession only on the ground that he was dispossessed from the property on 15.12.2015 and the amendment was filed on 17.12.2015, therefore, I do not find any justifiable reason to reject the amendment petition. I find that the learned Sub Judge has committed jurisdictional error in dismissing the petition of amendment of the petitioner.

5. Accordingly, the order dated 06.05.2016 passed in Title Suit No. 385 of 2007 by the learned Sub Judge-IV, Patna is set aside. The amendment of the plaintiff is allowed. Thus the civil miscellaneous petition is also allowed.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2018
Transmission Date	NA

