

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12186 of 2015

=====

Ram Sakal Yadav Son of late Sukhari Yadav, Resident of Village- Brahmpur,
P.S. Brahmpur, District- Buxar

... .. Petitioner/s

Versus

1. Kalika Yadav
2. Birendra Yadav
3. Ram Pravesh Yadav All sons of Late Chhabila Yadav, Residents of Village-
Brahmpur, P.S. Brahmpur, District- Buxar
4. Lakhani Devi Wife of Rama Kant Yadav and Daughter of Late Chhabila
Yadav, Resident of Village- Tiar, P.S.- Tiar, District- Bhojpur
5. Amawash Yadav, son of Late Sukhari Yadav
6. Sipahi Yadav, son of Late Sukhari Yadav
7. Ram Ashish Yadav, son of Late Sukhari Yadav
8. Ram Ashray Yadav, son of Late Sukhari Yadav
9. Parmatma Yadav
10. Chandrama Yadav
11. Sikandar Yadav All sons of Late Rangila Yadav. All Resident of Village-
Brahmpur, P.S.- Brahampur, District- Buxar
12. Smt. Ghamiya Devi, wife of Shiv Jatan Singh and D/o Late Sukhari Yadav,
Resident of Village- Dharauli, P.S. Krishnabrahm, District- Buxar
13. Satya Narayan Singh
14. Dhaneshwar Singh Both sons of Late Bishwanath Singh, Resident of village-
Gangadhar, P.S. Tiar, District- Bhojpur

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Satyapal Singh, Advocate
For the Respondent/s : Mr. Bishwa Nath Chaudhary, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 19-12-2018

Petitioner before this Court is plaintiff of Title Suit
(Partition)No.44 of 2007 pending in the Court of Sub Judge-V,
Buxar. He has filed this application for quashing the order dated
23.06.2015 whereby and whereunder the additional written
statement filed by defendant after amendment of plaint was
accepted subject to payment of cost of Rs.500/-.



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

3. In course of trial, the plaintiff amended Khata No.1447 mentioned in schedule-2 of the plaint by substituting Khata No.1477. After the said amendment, the defendant filed additional written statement disclosing the survey entry made with respect to Khata No.1477 in the name of different persons. The learned counsel for the petitioner submits that the said amendment was formal in nature as the plot no.5507 area 12 decimals remained the same as mentioned in schedule-2 of the plaint and so the defendants have no right to file additional written statement with respect to the pleadings which were not in the original written statement. The case is at the stage of argument and so the plaintiff would have no occasion to rebutt the said fact.

4. After going through the additional written statement, I find that the defendants have stated that the Khata No.1477 stands recorded in the name of Laung Chand Sah and others. The land of plot no.5507 was coming in possession of Parchadhari under the provision of B.P.P.H.T. Act. The respondents in their counter affidavit have annexed the copy of survey Khatian which shows that the land stands recorded in the name of Laung Chand Sah and others. These facts pleaded in additional written statement



are based on entry made in Khatiyan. Thus, I find that the court below has not committed any error in accepting the additional written statement which is based on entry made in survey Khatiyan. The grievance of the petitioner is that some new facts have been introduced at the fag end of trial and so the petitioner should be given chance of rebuttal.

5. In view of above discussions, I do not find any merit in this application requiring any interference in the impugned order accepting the additional written statement. The court below, however, is directed to give an opportunity to the petitioner, if required to rebutt the facts pleaded in the additional written statement which were never pleaded in the original written statement.

6. This writ application is dismissed with above observation.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.12.2018
Transmission Date	N/A

