

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10557 of 2015**

Barho Prasad son of Late Ram Deo Mahto, resident of village- Ramna Sherghati, P.O. and Police Station- Sherghati, District- Gaya.

... .. Petitioner/s

Versus

1. Asha Devi wife of Chandradeo Prasad
2. Chandradeo Prasad son of Late Ram Prasad Lal Both residents of village- Nariyahi, P.O.-Darioura, Police Station- Garua, District- Gaya.
3. Vijay Kumar @ Ram Jivan Singh son of Late Naurang Singh
4. Chanchal devi wife of Late Sunil Singh
5. Kail Singh son of Late Sunil Singh
6. Munger Singh son of Late Sunil Singh Respondent No. 3 to 6 are resident of Gola Bazar, Sherghati, Police Station- Sherghati, District- Gaya.

... .. Respondent/s

**Appearance :**

|                      |   |                                                                                      |
|----------------------|---|--------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Rajkishore Srivastava, Advocate<br>Md. Javed Jafar Khan, Advocate                |
| For the Respondent/s | : | Mr. Dinu Kumar, Advocate<br>Mrs Ritika Rani, Advocate<br>Mr. Arbind Kumar, Advocate. |

**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**  
**ORAL JUDGMENT**

**Date : 07-12-2018**

Petitioner has filed this application for quashing the order dated 26.02.2015 passed by ADJ-VI, Gaya in Title Appeal No.03 of 2015 whereby and whereunder the learned court below rejected the amendment petition filed by the appellant to amend the plaint.

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

3. Petitioner had filed Title Suit No.18 of 2004 seeking relief to restrain the defendants from causing any interference in his peaceful possession over the suit land and also for recovery of



possession in the event if found out of possession. The suit was dismissed by trial court against which the petitioner filed Title Appeal No.03 of 2015. In lower appellant court the petitioner filed an amendment petition on 21.01.2015 which after hearing was rejected.

4. On perusal of impugned order and documents on record, I find that the defendants at para-14 of their written statement have specifically stated that they have bounded the land purchased by them from all four sides with brick-wall and also constructed two rooms thereon. The said rooms were let out on rent to Chaukidar Tahshil Sherghatti on a monthly rent of Rs.400/-. A pleader commissioner was also appointed to inspect the land. The learned trial court at para-57 of its judgment has also stated about the existence of 25 shop rooms over the suit land. The petitioner/plaintiff wants to add one more paragraph as 10A to this effect that he was arrested and sent to jail in Complaint Case No.196 of 2004 and during his custody period, the defendant nos.1 and 2 built two shop rooms over some of the portion of the disputed land. This fact stands falsified from the pleading of the defendant as pleaded in the written statement as well as findings given by trial court at para-57 of the judgment. The learned court below considering all these facts has rejected the amendment petition.



5. In view of above discussions, I do not find any merit  
in this writ application and the same is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

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