

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2339 of 2015

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Shatrughan Mahto son of late Mahendra Mahto, resident of village-Salempur
Dariha, PS-Samastipur, District-Samastipur.

... .. Petitioner/s

Versus

Laxmi Mahto & Ors

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Sinha, Adv.

For the Respondent/s : Mr. Rajeev Ranjan, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 06-12-2018

Petitioner is plaintiff before the court below. He has filed this writ application for quashing the order dated 02.07.2014 passed by Sub-Judge-I, Samastipur in Title Suit No. 30 of 2012. The learned court below as per impugned order refused to amend the plaint.

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

3. The plaintiff filed the aforesaid suit on 30.01.2012 for declaration of his title over the land mentioned in schedule-I of the plaint besides some ancillary relief. The plaintiff claims the suit land as his ancestral/raiyyati land which was inherited by him after the death of his ancestor. The defendants filed their written statement on 04.09.2012 and in paragraph 11 of the written statement they asserted that the land was acquired by the defendant no. 1 by virtue of three sale deeds dated 14.08.2006, 10.01.2008



and 25.04.2011. The plaintiff in the light of averment made by the defendants, filed an amendment petition on 16.09.2013 praying therein to add relief with respect to 3 registered sale deeds of the defendants. According to plaintiff, the said sale deeds are fraudulent and collusive and the same do not convey any title in favour of the defendants or their family members. The learned court below while rejecting the prayer, has observed that the plaintiff filed the amendment petition at belated stage and the trial has already commenced. The observation of the court below is against the material on record. The defendants filed their written statement on 04.09.2012 and the plaintiff immediately filed an amendment petition on 16.9.2013 in the light to statement of defendants. The court below has framed issue and the suit is pending for evidence. As per submission of both the parties, it appears that the plaintiff has not examined any witness. The amendment appears formal in nature as it does not change the nature of the suit.

4. In view of above discussions, the impugned order refusing to amend the plaint is set aside and this writ application is allowed, subject to payment of cost of Rs.2,000/- to the defendants before the trial court. The court below is directed to give an



opportunity to the defendants to file additional written statement
with respect to amended plaint.

(Sanjay Kumar, J)

mkchy/-

AFR/NAFR	NAFR
CAV DATE	N/A
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