

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12436 of 2013

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Shyam Lal Sharma Son Of Late Ram Lagan Sah Resident Of Village & P.O.
Barahima, P.S. Sidhwaliya, District - Gopalganj

... .. Petitioner/s

Versus

1. Mosmat Godi Kuer W/O late Chandrika Prasad
2. Ashok Prasad
3. Umesh Prasad
4. Shyam Sunder Prasad Sons of late Chandrika Prasad
5. Rina Devi wife of Ramesh Prasad & Daughter of late Chandrika Prasad All
resident of Village: Barahima Nawaka tola, P.O. Barahima, P.S. Sidhwaliya,
District: Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nagendra Rai, Advocate Mr. Koshalendra Rai, Advocate Mr. Navin Nikunj, Advocate
For the Respondent no.1 to 5	:	Mr. Ranvijay Narain Singh, Advocate Mr. Dharmendra Kumar Singh, Advocate Mr. Manish Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date : 29-11-2018

Petitioner before this Court is plaintiff of Title Suit No.58 of 2012 (Eviction). He has filed this writ application to partially set aside the order dated 09.04.2013 whereunder his prayer to add one more paragraph as 3 (ka) in the plaint by way of amendment was refused.

2. Heard learned counsel for the petitioner as well as the respondents.

3. The petitioner filed the aforesaid suit for eviction of the defendant from the suit premises and also for realization of arrears of rent Rs.4,000/-. The plaintiff claims the suit plot no.1096



as his self acquired property out of his own earning. He had constructed shops and let out one of the shoproom to the defendants on a monthly rental of Rs.500/-. The defendants appeared and filed written statement. He has denied the relationship of landlord and tenant and claimed his own right and title on the basis of registered sale deed executed by the daughter of the plaintiff in his favour. The plaintiff filed amendment petition for incorporating the averments made with respect to sale deed as obtained by defendants from the daughter of the plaintiff. The petitioner further prayed for other amendments which were allowed by the court below subject to payment of cost of Rs.700/-.

4. It has been submitted that the petitioner had no knowledge about the sale deed allegedly executed by his daughter in favour of the defendants. He got knowledge only after going through the written statement of the defendants and accordingly filed amendment petition for rebutting the statement made with respect to acquisition of title by the defendants on the basis of sale deed.

5. After hearing both the sides and on perusal of record, I find that the suit is at initial stage of hearing and trial has not commenced. The amendment in question will no prejudice the defendants in any way as the suit has to be decided only on



establishing relationship of landlord and tenant coupled with the title. In order to avoid multiplicity of the suit and further litigation, the impugned order is fit to be set aside.

6. Accordingly, the impugned order refusing to add some facts relating to sale deed of the defendants by way of amendment is set aside and this writ application is allowed.

(Sanjay Kumar, J)

B.Kr./-

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

