

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.512 of 2013

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Kaushal Kumar Singh S/o Late Shatrughan Singh, resident of village & P.O. -
Dumri, P.S. - Manjhi, District – Saran.

.... Petitioner/s

Versus

1. Nagendra Kumar Singh son of Late Birendra Singh, resident of village & P.O. -
Dumri, P.S. - Manjhi, District – Saran.
2. Prithvi Raj Singh son of Late Birendra Singh, resident village & P.O. - Dumri,
P.S. - Manjhi, District – Saran.
3. Shivaji Singh son of Late Birendra Singh, resident village & P.O. - Dumri, P.S.
- Manjhi, District – Saran.
4. Urmila Singh W/O Shambhu Singh, D/O Late Birendra Singh, resident of
village & P.O. - Pihuli, P.S. - Asau, District - Siwan, presently residing at
village & P.O. - Dumri, P.S. - Manjhi, District – Saran.
5. Parmila Singh W/O Ram Naresh Singh, D/O Late Birendra Singh, resident of
village - Dharmakariyar, P.O. - Hasua, P.S. - Dhanwanti, District - Siwan,
presently residing at village & P.O. - Dumri, P.S. - Manjhi, District – Saran.
6. Renu Singh W/O Sunil Kumar Singh, D/O Late Birendra Singh, resident of
village - Harpur, P.O. & P.S. - Ekma, District - Saran, presently residing at
village & P.O. - Dumri, P.S. - Manjhi, District – Saran.
7. Most. Shiv Kumari Devi widow of Late Birendra Kumar Singh, resident of
village & P.O. - Dumri, P.S. - Manjhi, District – Saran.
8. Kusum Devi D/O Late Bharat Singh, W/O Late Shivji Singh, resident of village
- Dhaturi Tola, P.S. - Dokatti, District - Balia (U.P.).
9. Sushila Devi D/O Late Bharat Singh, W/O Late Surendranath Rai, resident of
village - Donnkhurd, P.O. - Donn, P.S. - Darauli, District – Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh, Adv.
For the Respondent/s : Mr. Abhay Kumar. Singh No.1, Adv.
Mr. Siddharth Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 12-09-2018

Petitioner before this Court is plaintiff in Eviction Suit
No.3 of 2008 pending in the court of Additional Munsif, Chapra. He
has filed this application for quashing the order dated 02.11.2012
whereby and whereunder the court below refused to permit the



petitioner to make necessary correction in the rejoinder petition filed by him against the intervenor petition.

2. Heard learned counsels for the petitioner as well as the respondents and perused the record.

3. The petitioner filed the aforesaid Eviction Suit No. 3 of 2008 for eviction of original defendant Birendra Singh. During the pendency of the suit, the respondent nos. 8 and 9 filed a petition under Order I Rule 10 read with section 151 of Code of Civil Procedure claiming interest in the suit property. The petitioner filed rejoinder on 17.06.2009. Subsequently, the petitioner filed a petition on 18.02.2012 to make necessary correction in the 5th line of paragraph 16 of his rejoinder. The petitioner wants to substitute the word Alhadgi (separation) by the word Izamaal (joint). The prayer of the petitioner to make the correction was rejected by the court below. It has been submitted that the petitioner has simply prayed to make necessary correction in his rejoinder. The said rejoinder cannot be treated as admission or pleading of the petitioner and it does not prejudice the respondents in any way in view of the fact that the intervention petition was pending for hearing. In the suit for eviction on the ground of personal necessity, the intervenor has no right to intervene the suit and in such suit complicated question of title of third party cannot be adjudicated and so the court below has



committed error in not permitting the petitioner to correct his rejoinder.

4. Considering the submission of the learned counsel for both the parties, facts and circumstances of the case, the impugned order refusing to permit the petitioner to amend the rejoinder is set aside and this writ application is allowed. The court below is directed to permit the petitioner to make necessary correction in his rejoinder as prayed by him.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14/09/2018
Transmission Date	N/A

