

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1046 of 2018

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1. Sanjay Kumar Srivastava, Son of Late Jagat Narayan Prasad, Resident of B.M. High School-cum-Rajkiye Inter College, Siwan near Salempur Mahdeva, Post Office- Siwan (Mahadeva O.P.), District- Siwan.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Siwan.
2. The District Collector, Siwan, P.O.+District- Siwan.
3. The Circle Officer, Anchal Pachrukhi, P.O.- Pachrukhi, P.S.- Pachrukhi, District- Siwan.
4. The District Education Officer, Siwan, P.O.+Police Station- Siwan Nagar, District- Siwan.
5. The Principal, B.M. High School-cum-Rajkiye Inter College, Siwan, P.O.- Siwan, P.S.- Mahadeva-O.P., District- Siwan.
6. Kanti Devi, Wife of Late Jagat Narayan Prasad, Resident of B.M. High School-cum-Rajkiye Inter College, Siwan near Salempur Mahdeva, Post Office- Siwan (Mahadeva O.P.), District- Siwan.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Md. Waliur Rahman

For the Respondent/s : Mr. Rishi Raj Sinha- Sc19

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 05-10-2018 Heard learned counsel for the petitioner and learned counsel for the State. Respondent No.6 is mother of the plaintiff/petitioner.

The petitioner has filed this civil miscellaneous petition against the order dated 18.05.2018 passed by Sub-Judge-1, Siwan in Title Suit No.780/2017 by which learned Sub-Judge-1, Siwan dismissed the petition of the petitioner for amendment of the plaint.

Learned counsel for the petitioner submits that the petitioner filed suit for declaration of easementory right over the land mentioned in the suit. During pendency of the suit, the



respondents blocked the road by constructing a boundary wall and thereafter petitioner filed the amendment petition to amend the plaint and add relief for seeking demolition of the boundary wall but the same has been rejected.

I find that the suit is at an initial stage. The respondents have appeared but issues are yet to be settled. Therefore, I find that the court is vested with all the power to allow the amendment if such amendments are required to resolve the dispute between the parties. From perusal of the amendment petition, it appears that some subsequent development happened and the respondents are alleged to have constructed boundary over the path road and the plaintiff/petitioner wanted to insert certain facts in the plaint as well as add relief seeking removal of boundary wall obstructing egress and ingress of the plaintiff from his house. Therefore, I find that the order of rejection of the amendment petition is illegal and the learned Sub-Judge-1 has committed jurisdictional error.

Accordingly, the order dated 18.05.2018 passed in T.S. No.780 of 2017 is set aside and the petition of the plaintiff dated 12.02.2018 for amendment of the plaint is allowed. Consequently, this civil miscellaneous petition is allowed.

(Prabhat Kumar Jha, J)

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