

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.115 of 2017

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1. Kapildeo Prasad Singh Son of Late Sone Lal Rai resident of village -
Sugauna Patti, Chapahi, PS - Rajnagar, District - Madhubani.

.... Appellant/s

Versus

1. Smt. Mridula Devi wife of Vishwanath Roy, daughter of Late Sone Lal
Rai Mauze Maika Sugauna Patti Chapahi PO - Chapahi PS - Rajnagar,
District - Madhubani, Sauhari resident of village - Dadha Pali Mohan PO
and PS - Khajauli, District - Madhubani.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ram Bilash Roy Raman

For the Respondent/s : Mr. D.K. Tandon

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 30-08-2018 Heard the learned counsel for the petitioner and the
learned counsel for the respondent.

The petitioner filed this Civil Misc. petition against
the order dated 20.10.2016 passed by learned Sub Judge-III,
Madhubani in Title Suit No. 56 of 2002 by which the learned Sub
Judge dismissed the petition of the petitioner filed for amendment
in the plaint inserting the boundary of the lands in question.

The learned counsel for the petitioner submits that
the suit is for specific performance of contract. The defendant has
executed the deed of agreement to sale different plots but the
defendants did not perform her part compelling the plaintiff to file
the suit. During the pendency of the suit the plaintiff found that the



plaintiff could not mention due to inadvertence the boundary of different plots mentioned in the agreement and thereafter, the plaintiff filed the petition for amendment but the learned Sub Judge has erroneously rejected the petition of amendment holding that the amendment sought for would change the nature of the suit.

Contending the submission of the learned counsel for the petitioner, learned counsel for the respondent submits that the plaintiff wanted to insert new plots in the agreement. The suit was filed in the year 2002. The defendant concluded his argument on 24.07.2013. The plaintiff also concluded his argument on 17.04.2014 but thereafter, the petition for amendment petition was filed on 17.06.2015. The amendment would change the nature of the suit but on perusal of the amendment petition, which is annexed as Annexure-2, I find that the plaintiff wanted to mention the boundary of different plots mentioned in the deed of agreement. Save and accept mentioning the boundary in order to ascertain the plots no other amendment is sought. Therefore, I find that the learned sub Judge has committed jurisdictional error. In view of the provision as contained in Order VI Rule 17 of the CPC, all such amendments which are necessary for the determination of the disputes between the parties shall be allowed.

Taking into consideration the facts aforesaid, I find



that order of learned Sub Judge is illegal and not sustainable. Accordingly the order dated 20.10.2016 passed by learned Sub Judge-III, Madhubani in Title Suit No. 56 of 2002 is set aside. The amendment petition is allowed. Thus, this Civil Misc. petition is allowed.

(Prabhat Kumar Jha, J)

BKS/Rajan

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