

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7584 of 2013

=====

Bunnilal Patel Son of Late Mahabir Patel, resident of village - Shikarpur, P.S. Sikta, District - West Champaran.

.... Petitioner/s

Versus

1. Ashalam Mian Son of Isha Mian, resident of village - Shikarpur, P.S. Sikta, District - West Champaran
2. Deba Mian Son of Isha Mian, resident of village - Shikarpur, P.S. Sikta, District - West Champaran
3. Bikarma Mishra Son of Late Mangal Mishra, resident of village - Bettiah Dih Tola Jokaha, P.S. Bettiah, Distt. - West Champaran
4. Musmat Bedami Kuar Wife of Late Satyadeo Mishra, resident of village - Bettiah Dih Tola Jokaha, P.S. Bettiah, Distt. - West Champaran
5. Ramayodha Mishra Son of Bindhyachal Mishra, resident of village - Bettiah Dih Tola Jokaha, P.S. Bettiah, Distt. - West Champaran
6. Bedami Wife of Harischandra Mishra, resident of village - Bettiah Dih Tola Jokaha, P.S. Bettiah, Distt. - West Champaran
7. Musomat Dalmuni Wife of Paras Mishra, resident of village - Bettiah Dih Tola Jokaha, P.S. Bettiah, Distt. - West Champaran.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Gauri Shankar Thakur, Adv.

For the Respondent/s : Mr. Lallan Kuamr Verma

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 11-04-2018

I.A. No. 1718 of 2015

Heard both sides on pending interlocutory application
no. 1718 of 2015 and on admission.

The above interlocutory application has been filed by the
heirs of Bunnilal Patel, the sole petitioner of this writ application who
died on 27th June 2014 leaving behind his wife, four sons and four
daughters as mentioned in paragraph of 1 of the application.

The prayer, as made in the above application, is allowed



and the heirs of petitioner Bunnilal Patel, as mentioned in paragraph 1 of the application, are substituted in his place.

The I.A. No. 1718 of 2015 stands disposed of.

On admission

The plaintiff of Title Suit No. 280 of 2000 has filed this application for setting aside the order dated 2nd February 2013 passed by VIth Additional Munsif, Bettiah whereby and whereunder the amendment petition filed by this petitioner was rejected.

Heard learned counsels for the petitioner and the respondents.

This petitioner filed the aforesaid Title Suit No. 280 of 2000 on the file of Munsif for declaration and confirmation of possession over the suit land mentioned at the foot of the plaint. During the trial, both the parties adduced evidence and at the time of argument, the petitioner filed an amendment petition for amending the relief by adding two words in relief portion. The petitioner has sought relief under para no. 14 of the plaint as mentioned below:-

On adjudication of the facts and circumstances, set forth above be pleased to declare and confirm the possession of the plaintiff over the suit land.

By proposed amendment, the petitioner wants to add word “right, title” after the word ‘confirm’ and before the word



‘possession’ in paragraph 14 (i) of the plaint.

On going through the plaint, I find that the plaintiff has asserted that he acquired right and title on the basis of registered sale deed. He has asserted his title in paragraph 3 and 8 of the plaint in clear words. It has been submitted that the plaintiff and defendants have already adduced evidence on the point of their right and title and so in the event of allowing amendment, none of the parties would be required to adduce any oral and documentary evidence.

On going through the pleadings of the parties and material on record I find that the amendment is simple in nature and it does not change the nature of the suit.

In view of the above facts, the impugned order refusing the amendment is set aside and the amendment as prayed for is allowed.

This application is accordingly allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13/04/2018
Transmission Date	

