

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1420 of 2018**

Devendra Rai S/o Sonafi Rai, R/o Village- Parsauni Baij Post Kamraula, P.S. Piparahi, District- Sheohar.

... .. Petitioner/s

Versus

1. Jitendra Kumar, Son of Anil Kumar Baitha.
2. Rajnish Kumar Baitha, S/o Harishankar Baitha, R/o Village Parsauni Baij, P.S. Piparahi, District- Sheohar.
3. Bharat Pandey, S/o Late Harishankar Pandey, R/o Village Parsauni Baij, Post Kamrauli, District- Sheohar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Alok Kumar Jha
For the Respondent/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER**

2 30-11-2018 Heard Mr. Surendra Kishore Thakur, learned counsel
for the petitioner.

The petitioner has filed this civil miscellaneous petition against the order dated 30.07.2018 passed by Sub Judge I, Sheohar in Title Suit No.300 of 2012 whereby learned Sub Judge allowed the amendment petition of the plaintiffs for making amendment in the plaint.

Mr. Surendra Kishore Thakur, learned counsel for the petitioner submits that earlier the case of the petitioner in the plaint is that the new Survey Plot No.2951, area 11 decimals carved out from C.S.P. No.1396 and the same was owned by Rajeshwar Prasad, son of Kamta Prasad. Rajeshwar Prasad executed sale deed on 16.05.1968 to Harishankar Pandey with



regard to 3 kathas 5 dhurs land. Harishankar Pandey came in possession and Bharat Pandey, son of Hari Shankar Pandey sold the land to the plaintiffs on 24.02.2009 but by amendment, the plaintiffs wanted to change the nature of land by inserting the facts that Yugal Kishore Pandey and Harishankar Pandey purchased the land of Plot No.2951 by different sale deeds executed on 16.05.1968. The plaintiffs also wanted to delete the word that new Plot No.2951 was carved out from C.S.P. No.1396 and the area of the disputed land has also been changed but the learned Sub Judge without looking into the facts allowed the amendment petition seeking amendment in the plaint and by such amendment, the nature of the suit would change. It is further submitted that the hearing of the suit has already begun and plaintiff has examined one witness but it appears from perusal of the order impugned as well as plaint and the amendment petition that the plaintiffs sought declaration of title and recovery of possession over the lands mentioned in Schedule I of the plaint. In Schedule I of the plaint, Plot No. No.2951 of Khata No.45 area 11 decimals has been mentioned. The plaintiffs claimed declaration of title on the basis of the sale deed executed by Bharat Pandey, son of Harishankar Pandey in the year 2009. The plaintiffs stated in the plaint that Harishankar



Pandey purchased the land from Rajeshwar Prasad in the year 1968 and the same Plot No.2951 was carved out from C.S.P. No.1396 but by amendment, the plaintiffs wanted to clarify and insert the word that in fact, Ram Kishore Prasad and Shyam Kishore Prasad sold the land in favour of Harishankar Pandey and Yugal Kishore Pandey. Later on, Bharat Pandey, son of Harishankar Pandey sold the land falling in his share to the plaintiffs. Thus, it is evident that in sum and substance, the plaintiffs wanted some clarification in the plaint about the title of his purchaser and the area of land sold by Ram Kishore Prasad and Shyam Kishore Prasad. Therefore, I find that amendment would not change the nature of the suit and the same is more clarificatory in nature. I find that learned Sub Judge has rightly allowed the amendment petition of the plaintiffs. The petitioner shall have right to file additional written statement in view of the amendment made by the plaintiffs in the plaint.

Accordingly, this civil miscellaneous petition is dismissed as devoid of any merit.

Saurabh/-

(Prabhat Kumar Jha, J)

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