

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10476 of 2014

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Rajendra Rai son of late Baleshwar Rai, resident of village Dayalpur, P.S.- Raja
Pakar, District -Vaishali. Petitioner/s

Versus

1. Sarjugia Devi wife of Sri Jag Narayan Rai, resident of Mohalla Dighi Kala, P.S.
Hajipur, District Vaishali.
2. Lal Deo Rai
3. Shyam Babu Rai both sons of Ram Dayal Rai, Both residents of Mohalla- Dighi
Kala East, P.S.- Hajipur Sadar, District -Vaishali. Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Choudhary, Adv.
For the Respondent/s : Mr. Dharmendra Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 12-02-2018

The petitioner is plaintiff of Title Suit No. 241 of 1989. He has filed this application for setting aside the order dated 22nd May 2014 passed by the Sub-Judge-VII, Vaishali at Hajipur. The learned court below as per impugned order rejected the amendment petition filed by this petitioner for amending the plaint.

2. Heard learned counsels for the petitioner as well as the respondents.

3. The plaintiff filed the aforesaid suit for specific performance of contract. During the pendency of suit, the defendant no. 1 sold the suit property in favour of the respondent nos. 2 and 3, who were added as party to the suit. The petitioner further sought relief for declaration with respect to the sale deed dated 22nd December 2013 as forged, fabricated and not binding on the plaintiff.



After amendment of plaint, a report was call for from the office as regards court-fee. The Sirestedar reported that the court-fee of Rs.46,202/- is payable by the plaintiff. Thereafter, the petitioner filed amendment petition for expunging the words ‘forged and fabricated’ from the relief portion. The court below rejected the prayer observing that the said amendment has been filed after much delay. The court further observed that the suit is of the year 1989 and the old case is required to be given top priority in disposal and so his prayer was rejected. After going through the pleadings of both the parties, I find that the plaintiff simply wants to amend the relief by deleting the words ‘forged and fabricated’. This amendment is simple in nature as it does not prejudice the respondent in any way. The impugned order rejecting the prayer of petitioner passed on 22nd May 2014 is therefore set aside and the amendment filed by the petitioner is allowed.

4. Accordingly this application is allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.02.2018
Transmission Date	

