

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12015 of 2012

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Dinesh Thakur S/o Shri Bhagwan Thakur, resident of Village Gachhi Tola,
Rajendra Nagar, Ward No. 4, Police Station Balia, District Begusarai.

.... Petitioners

Versus

Sri Lal Sah S/o Late Asharfi Sah, resident of Village Mansoor Chak, P.S., District Begusarai.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Narendra Kumar, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 07-05-2018

This writ application has been filed to quash the order dated 07.02.2012 passed by learned Subordinate Judge III, Begusarai in Title Suit No.299 of 2002 whereby and whereunder the petition filed by the petitioner to amend the plaint was rejected.

2. Heard learned counsel for the petitioner and perused the record.

3. It appears that the petitioner filed the aforesaid title suit before the court below for specific performance of contract alleging inter alia that as per negotiation, the respondent agreed to sell the land measuring 6 dhur of Plot No.689 as mentioned in Schedule I of the plaint for a total consideration of Rs.50,000/-. The petitioner paid an



amount of Rs.49,000/- to the respondent as earnest money and the respondent executed a deed of agreement on 23.09.2002. The respondent (defendant) did not execute sale deed as per agreement and so the petitioner filed the present suit before the court below. The petitioner filed an amendment petition before the court below for bringing some new facts by way of amendment which after hearing was rejected observing that the said amendment would change the nature of the suit.

4. The learned counsel for the petitioner submits that the proposed amendments are simple in nature as some necessary facts could not be mentioned on account of typing mistake and so the same are necessary to be incorporated.

5. On perusal of the impugned order, it appears that the petitioner has already examined two witnesses. By proposed amendment, the petitioner wants to add one more paragraph relating to nature of title derived by the respondent (defendant) from his ancestor. The petitioner has filed the present suit for specific performance of contract in which the title of respondent (defendant) is not to be adjudicated. The plaintiff will succeed only when the petitioner proves his contract beyond shadow of doubt. The court below considering these facts has rejected the amendment petition.



6. In view of above facts, this application being devoid of merit is dismissed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.05.2018
Transmission Date	

