

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1318 of 2016**

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Smt. Gyanti Devi, Wife of Chandeshwar Singh, Resident of village + Post
Office Bhitbherwa, Police Station + District Gopalganj

... .. Petitioner.

Versus

1. Sadanand Singh, Son of Late Kailash Pati Singh, Resident of village + Post
Office Bhitbherwa, Police Station + District-Gopalganj
... .. Defendant/Appellant/Respondent.
2. Rupan Singh, Son of Late Ram Nath Singh
3. Lal Babu Singh, Son of Late Ram Prit Singh. Both are Resident of village +
Post office Bhitbherwa, Police Station + District Gopalganj

... .. Defendants/Respondents.

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Appearance :

For the Appellant/s : Mr. Shailendra Kumar Dwivedi
For the Respondent/s : Mr.

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

Date : 10-09-2018

Heard both sides.

2. The petitioner is the plaintiff-respondent of Title Appeal No.231 of 2015. He filed this civil miscellaneous petition under Article 227 of the Constitution of India to quash the order dated 19.09.2016, passed by the learned 8th Additional District Judge, Gopalganj in Title Appeal No.231 of 2015 by which the petition of the petitioner for amendment of the plaint with regard to correction of Plot No.55 instead of Plot No.5 of Khata No.207 has been rejected solely on the ground that the amendment is filed at a very belated stage of the appeal and the same is not maintainable.



3. Admittedly the plaintiff filed the suit for declaration of the sale deed with regard to the lands mentioned in Schedule II of the plaint executed by defendant no.1 in favour of defendants no.2 and 3. The suit was decreed. The defendants filed appeal. During the pendency of the appeal, the plaintiff-respondent filed petition under Order VI Rule 17 of the Code of Civil Procedure for correction of RSP No.5 of RS Khata No.207 mentioned in Schedule II of the plaint. It is stated that due to typing error, instead of RSP No.55 of RS Khata No.207, RSP No.5 has been typed but the learned Additional District Judge rejected the amendment petition solely on the ground that the amendment is at a very belated stage without appreciating the facts that the amendment is of very formal and corrective in nature. One of the sale deeds was registered by defendant no.1 in favour of defendants no.2 and 3 with regard to RSP No.55 of RS Khata No.207 and only RSP No.55 has wrongly been typed as RSP No.5 which necessitated the amendment when the same was detected. The learned counsel for the respondents no.1 and 3 submitted that the entire defence of the defendant-appellant with regard to cause of action shall become infructuous.

4. I find that the submissions of the learned counsel for the respondents no.1 and 3 are not at all acceptable by any stretch



of imagination. On bare perusal of the amendment petition, it appears that the plaintiff wanted to correct RS Plot in Schedule II of the plaint with regard to sale deed was executed. The sale deed also contains RS Plot No.55 of RS Khata No.207. In the Schedule II, RS Khata No.207 has been typed but instead of RS Plot No.55, RS Plot No.5 has been typed. Accordingly, I find that the learned Additional District Judge has committed jurisdictional error and passed the order without application of his mind in a very mechanical and perfunctory manner.

5. Accordingly, the order dated 19.09.2016, passed by the learned 8th Additional District Judge, Gopalganj in Title Appeal No.231 of 2015 is set aside. The amendment petition is allowed. This civil miscellaneous petition is accordingly allowed. It goes without saying that if the defendant-appellant, so desires, may file additional WS.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2018
Transmission Date	NA

