

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1161 of 2016

=====

1. Dharmadev Singh son of Late Shri Singh
2. Kamakhya Narayan Singh
3. Vinod Kumar Singh
4. Rakesh Kumar Singh Petitioner No. 2 to 4 all sons of Late Brahmadev Singh All resident of Village and Post Office- Kathej, P.S.- Mohania, District- Kaimur (Bhabua).

.... Petitioner/s

Versus

1. Raj Nath Ram son of Late Banarasi Ram
2. Ramashanker Ram son of Late Kuber Ram
3. Triveni Ram son of Late Bachati Ram All resident of Village and Post Office- Kathej, P.S.- Mohania, District- Kaimur (Bhabua).
--Defendants 1st set/Respondents
4. Bhoodan Yagya Committee, Gardanibagh Patna through its Chairman.
--Defendant 2nd set/Respondent
5. The State of Bihar through Collector, Kaimur (Bhabua)
6. The Anchaladhikari, Mohania, Block- Mohania, District- Kaimur.

.... Defendant 3rd set/Respondents

=====

Appearance :

For the Appellant/s : Mr. Ashok Kumar Garg
For the Respondent/s : Mr. Subhash Chandra Yadav-GP15

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

3 18-01-2018 Heard Mr. Ashok Kumar Garg, learned counsel for the petitioners and Mr. Kumar Sunil, learned counsel for the respondent Nos.1 to 3 and Mrs. Sanghmitra Ghosh, learned counsel for the respondent Nos.5 and 6.

The petitioner has filed this petition against the order dated 01.08.2016 passed by Sub Judge VIII, Bhabhua, Kaimur in Title Suit No.10 of 2015.

The brief facts of the case arises to the filing of this



petition is that the plaintiff filed a suit that the title of the plaintiff be declared on the lands mentioned in Schedule A of the plaint and encroachment proceeding initiated by the Circle Officer vide Encroachment Case Nos.1, 2 and 8 of 2014-15 is bad, illegal and without jurisdiction. During the pendency of the suit, the plaintiff filed petition under Order VI Rule 17 read with Section 151 C.P.C. for amendment of certain facts in the plaint as well as amendment of relief portion. The plaintiff wanted to amend after para 15 of the plaint that Bhudan Yagya Committee illegally and without jurisdiction issued purcha nos.33507, 33508, 33509 on 23.07.1983 in favour of the defendants 1st set with regard to the suit land and the purchas are fabricated and illegal. The plaintiff also wanted to incorporate para 16(ka) and 16(kha) after para 16. The plaintiff wanted to amend the prayer portion (ka) and (kha) after relief No.1 that it be declared that the certificate Nos. 1, 2 and 3 issued on 23.07.1983 is without jurisdiction, illegal and void and defendant No.6 who was put in possession of the land on 16.06.2015 be declared to be in illegal possession and recovery of the plaintiff be given. Learned Sub Judge allowed the amendment petition in part and insertions of para 16(ka) and 16(kha) and prayer portion (kha) were allowed to be amended but the learned Sub Judge at the same time, did not allow the plaintiff to amend



and insert amendment No.1 after para 15 of the plaint and prayer portion (ka) after relief No.1 vide order dated 01.08.2016.

The learned counsel for the petitioners submits that the suit is at the very initial stage. Even issues have not been framed. Learned Sub Judge has partly allowed and partly rejected the amendment petition without any reason, on such, Mr. Kumar Sunil learned counsel for the respondent Nos.1 to 3 very fairly submitted that since the order itself sans any reasoning and any judicial order without any reason is illegal.

Having considered the submission of both sides, I find that the learned Sub Judge has not given any reason either for allowing the amendment petition or rejecting the part amendment petition. Therefore, I find that this order impugned is bad and illegal on this ground alone that no reason is given for allowing or rejecting the amendment petition.

It is well settled law that amendment can be allowed at any stage in order to resolve the dispute between both sides if it does not work any injustice or cause any prejudice to the other side. Admittedly, the hearing of the suit has not begun and even the issues have not been framed, therefore, I set aside the order dated 01.08.2016 passed in Title Suit No.10 of 2015 and remanded the matter to the learned Sub Judge to pass order afresh in



accordance with law.

Accordingly, this civil miscellaneous petition is
allowed.

(Prabhat Kumar Jha, J)

Saurabh/-

U		T	
---	--	---	--

