

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1525 of 2016

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1. Parwati Devi Wife of Uma Shankar Prasad Resident of Mohalla- Bag Taj Khan @ Pokhara, P.O. and P.S. Hajipur, District Vaishali , at Present Resident of Mohalla- Babuganj under Nagar Panchayat, Khagaria, P.O. and P.S. Khagaria, District- Khagaria.

.... Petitioner/s

Versus

1. Shashi Bhushan Prasad
2. Sanjay Kumar Both Sons of Shiv Shambhu Prasad
All resident of Ashram Road, Raxaul, P.S.-Raxaul, District-East Champaran (Motihari).

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rakesh Kumar Soni

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

5 19-11-2018 Heard learned counsel for the petitioner. Nobody appears on behalf of the respondents.

The petitioner being aggrieved by order dated 16.11.2016 passed in Probate Case No.2 of 2004/Title Suit No.3 of 2007 by learned Additional District Judge III, Khagaria by which learned Additional District Judge dismissed the petition of the petitioner for amendment of the plaint.

Learned counsel for the petitioner submits that the amendment petition was filed on 04.06.2015 in which the petitioner wanted to give descriptions of the land in the plaint but the amendment petition of the petitioner has been rejected solely



on the ground that the same was pressed after hearing of the case and the petitioner could not be able to show due diligence for not bringing such amendment before hearing of the suit. From perusal of the order impugned, I find that learned Additional District Judge has committed jurisdictional error by rejecting the petition of the petitioner for amendment in the plaint. Order VI Rule 17 C.P.C. bestows power on the Court to allow all such amendments which are necessary for resolution of the disputes between the parties. By the amendment, the petitioner only sought for mentioning the descriptions of the suit land and thereby the same would not change the nature of the suit. The amendment petition was also filed much before the start of the hearing of the suit. Accordingly, the order dated 16.11.2016 is set aside. The amendment petition is allowed and this civil miscellaneous petition is consequently allowed.

(Prabhat Kumar Jha, J)

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