

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.2070 of 2017

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Dinesh Sah, Son of Ramtahal Sah, Residence of Village- Sahu Parbatta, P.S.- Parbatta, District- Bhagalpur.

... .. Defendant No.2/Petitioner

Versus

1. Sadanand Mandal, Son of Late Santlal Mandal, Residence of Village- Sahu Parbatta, P.S.- Parbatta, District- Bhagalpur.

... ..Plaintiff/Respondent

2. Chhitani Devi, Wife of Late Gajadhar Mandal.

3. Pappu Mandal,

4. Bablu Mandal,

5. Mohan Mandal.

6. Ranbo Mandal.

7. Mantoo Mandal.

8. Binod Mandal.

9. Shanto Mandal, Serial No. 2 to 9 Son of Late Gajadhar Mandal.

10. Pancho Devi, Wife of Binod Mandal, D/o Late Gajadhar Mandal.

11. Ranjo Devi, Wife of Late Binodi Mandal, D/o Late Gajadhar Mandal, All are Resident of Village- Khaba Chandra Tola, P.S.- Surgardha, Dist.- Munger.

... ..Defendant No.1/Respondents

12. Ashok Sah @ Lallu Sah.

13. Pralahad Sah, Both are sons of Late Bindeshwari Sah, Residence of Village + P.O.- Sahu Parbatta, P.S.- Parbatta, District- Bhagalpur.

14. Lalita Devi, Wife of Sakhan Sah, Residence of Village + P.O.- Gogari Jamalpur, Dist.- Khagaria.

15. Piki Devi, Wife of Ajit Sah, Residence of Village + P.O.- Sindhya Makdampur, P.S.- Gopalpur, District- Bhagalpur.

16. Roshni @ Beauty Kumari, Residence of Village + P.O.- Sahu Parbatta, District- Bhagalpur.

17. Rambriksh Sah, Son of Late Ramtahal Sah, Residence of Village- Sahu Parbatta, P.S.- Parbatta, District- Bhagalpur.

... ..Defendant No.2/Respondents

18. Kalanand Mandal,

19. Mantoo Mandal, Both are Sons of Late Balbhadra Mandal, Residence of Village- Sahu Parbatta, P.S. Parbatta, District- Bhagalpur.

... ..Defendant No.3/Respondents

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Appearance :

For the Appellant/s : Mr. Deepak Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 31-08-2018



Heard Mr. Shardanand Mishra, the learned counsel appearing on behalf of the petitioner.

2. The petitioner has filed this civil miscellaneous petition against the order dated 07.09.2017, passed by the learned Munsif, Naugachia in Title Suit No.57 of 2005 by which the learned Munsif allowed the petition of the plaintiff for amendment of the plaint at the cost of Rs.500/-.

3. Petitioner is the defendant in the suit. The plaintiff filed the suit for correction of record of right during revisional survey and declaration of title and recovery of possession. The case of the plaintiff is that Old Plot No.459 is 1.72 decimal out of which .31 decimal land fell in the share of Santlal Mandal. Santlal Mandal got two sons namely Sadanand Mandal, plaintiff and Gajadhar Mandal (defendant no.1). Three plot bearing no. 1215 area 6 decimal, plot no.1216 area 18 decimal and plot no.1214 area 7 decimal were carved out from Old Plot No.459 and fell in the share of father of plaintiff and defendants. Plaintiff and defendant each got $15\frac{1}{2}$ decimal of land but $\frac{1}{2}$ decimal of the aforesaid plot was wrongly entered in the name of defendant nos.5 and 6. Defendant no.1, brother of the plaintiff, also sold more lands that the land fell in his share in favour of defendant nos.2, 3 and 4. During pendency of the suit the plaintiff filed petition for amendment of the plaint. The plaintiff sought for amendment in area and numbers of plot and



Khata Number mentioned in the plaint. The learned Munsif after hearing both sides allowed the amendment petition of the plaintiff by the impugned order dated 07.09.2017.

4. Mr. Shardanand Mishra, the learned counsel for the petitioner submits that the suit is of the year 2005 and the amendment petition is filed at a very belated stage but it appears from the perusal of the amendment petition that the amendment is of formal nature. It would not change the nature of the suit nor would cause any irreparable loss or injustice to the defendants. Order VI Rule 17 of the CPC provides that all such amendment which are required for determination of the dispute between the parties shall be allowed and, therefore, I do not find any illegality in the order passed by the learned Munsif, Naugachia allowing amendment of plaint.

5. Accordingly, this civil miscellaneous petition is dismissed. It goes without saying that the defendant has got every right to file WS, if he so desires.

(Prabhat Kumar Jha, J)

S.KUMAR/-

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

