

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.295 of 2019

Mani Lal Pandey, son of Late Dev Sharan Pandey, Resident of Village-Itwan,
P.S.-Bihta, District- Patna.

... .. Petitioner

Versus

1. Devanti Devi, Wife of Prem Narayan Pandey, Resident of Village-Itwan,
P.O.- Doghara, Via-Lai, P.S.-Bihta, District- Patna.
2. Sunil Kumar Pandey S/o Prem Narayan Pandey, Resident of Village-Itwan,
P.O.- Doghara, Via Lai, P.S.-Bihta, District- Patna.
3. Sushil Kumar Pandey, Son of Prem Narayan Pandey, Resident of Village-
Itwan, P.O.- Doghara, Via Lai, P.S.-Bihta, District- Patna.
4. Subodh Kumar Pandey, Son of Prem Narayan Pandey, Resident of Village-
Itwan, P.O.- Doghara, Via Lai, P.S.-Bihta, District- Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Dhananjay Kumar Tiwary, Advocate
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 02-05-2019

This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order datd 26.06.2018 passed in Title Suit No.282 of 2012 by the learned Sub Judge-V, Danapur whereby he has allowed the petition of respondent no.1 filed under Order 6 Rule 17 read with 151 of the Code of Civil Procedure (for short 'CPC') for amendment of pleading which was filed in Title Suit No.282 of 2012.

2. Learned counsel for the petitioner submitted that the order impugned has been passed by the trial court without appreciating the facts of the case. He contended that respondent



no.1 had full knowledge about the documents submitted by the petitioner before the trial court from before, but on mere assertion that she had no prior knowledge of the documents, the trial court has allowed the amendment petition of respondent no.1, who has been transposed as plaintiff in the suit.

3. On perusal of the record, it appears that respondent no.1 is the wife of the original plaintiff. She has been transposed at the place of plaintiff after the death of her husband. She had filed a written statement in the capacity of defendant no.4 while her husband was alive. Subsequently, when she was transposed as plaintiff, she filed an application under Order 6 Rule 17 for amendment in the pleading, which has been allowed by the court below vide impugned order dated 26.06.2018.

4. The purpose and object of Order 6 Rule 17 of the CPC is to allow either party to alter or amend his pleadings in such manner and on such terms as may be just. While deciding such prayers, the court is not required to adopt a hyper-technical approach. The approach should be liberal particularly, when the other side can be compensated with cost.

5. The court below, in the instant case, has allowed the amendment to be made on deposit of cost.



6. In that view of the matter, I am not inclined to interfere with the order impugned in exercise of supervisory jurisdiction under Article 227 of the Constitution India.

7. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.05.2019
Transmission Date	NA

