

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.305 of 2019

Santosh Kumar Singh, S/o Ashok Kumar Singh Resident of Village-Parsa,
P.O. - Karma Bhagwan, Distt.- Aurangabad.

... .. Principal Defendant-Petitioner
Versus

1. Smt. Shushila Devi, W/o Sri Uday Pratap Singh, Resident of Village and P.O. - Karma Bhagwan, P.S. and Distt.- Aurangabad.
2. Uday Pratap Singh, S/o Late Ram Govind Prasad Singh, Resident of Village and P.O. - Karma Bhagwan, P.S. and Distt.- Aurangabad.
3. Lakshmi Pratap Singh, S/o Sri Uday Pratap Singh, Resident of Village and P.O. - Karma Bhagwan, P.S. and Distt.- Aurangabad.
4. Smt. Lalmuni Devi, W/o Bida Kumar Singh, Resident of Village and P.O. - Karma Bhagwan, P.S. and Distt.- Aurangabad.
5. Rita Devi, W/o Bidesh Kumar Singh, Resident of Village and P.O. - Karma Bhagwan, P.S. and Distt.- Aurangabad.

... .. Plaintiffs-Respondents 1st Set

6. Sudha Devi, W/o Late Anil Singh, resident of Village- Jamuhar, P.O.- Dehri, Distt.-Rohtas.
7. Khula Devi, W/o Rajender Singh, resident of Village- Mubarakpur, P.S. and P.O. -Goh, Distt. - Aurangabad
8. Jai Ishwar Singh, S/o Late Brij Mohan Singh, resident of Village.- Parsa, P.O.- Karma Distt.- Aurangabad.
9. Rajendra Singh, S/o Late Brij Mohan Singh, resident of Village- Parsa, P.O.- Karma Distt.- Aurangabad.
10. Kasmata Singh, S/o Late Brij Mohan Singh, resident of Village- Parsa, P.O.- Karma Distt.- Aurangabad.
11. Lalita Singh, S/o Late Brij Mohan Singh, resident of Village- Parsa, P.O.- Karma Distt.- Aurangabad.
12. Ashok Kumar Singh @ Baiju Singh, S/o Shaligram Singh, resident of Village- Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
13. Gopal Singh, S/o Shaligram Singh, resident of Village- Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
14. Ramjee Singh, S/o Shaligram Singh, resident of Village- Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
15. Nitesh Kumar Singh, S/o Ashok Kumar Singh, resident of Village-Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
16. Ritesh Kumar Singh, S/o Ashok Kumar Singh, resident of Village-Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
17. Anand Mohan Singh S/o Gopal Singh, resident of Village-Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
18. Chunmun Kumar Singh, S/o Gopal Singh, resident of Village-Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.



19. Amrit Raj Singh @ Banti, S/o Ramjee Singh, resident of Village-Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
20. Pintu Kumar Singh, S/o Rajendra Singh resident of Village-Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
21. Dablu Kumar Singh, S/o Kamta Singh resident of Village-Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
22. Bablu Kumar Singh, S/o Kamta Singh, resident of Village-Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
23. Mantoo Kumar Singh, S/o Jai Ishwar Singh, resident of Village-Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
24. Rinku Kumar Singh, S/o Jai Ishwar Singh, resident of Village-Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.
25. Bhola Singh, S/o Lalita Singh, resident of Village-Parsa P.O.- Karma Bhagwan, Distt.- Aurangabad.

... Defendants-Respondents 2nd Set

26. Sudhir Singh, S/o Late Ram Ekbal Singh and Bimla Devi, resident of Village- Tona, P.O.- Simra-Porgana Kutumba, Distt.- Aurangabad. Present Address at Village- Dhanpuri Chip House Colony, P.O. and P.S.-Amlal, Distt.-Shahdol (M.P.)
27. Satish Singh, S/o Late Ram Ekbal Singh and Bimla Devi, resident of Village- Tona, P.O.- Simra -Porgana Kutumba, Distt.- Aurangabad. Present Address at Village- Dhanpuri Chip House Colony P.O. and P.S.-Amlal, Distt.- Shahdol (M.P.)

... ... Proforma Defendants-Respondents

Appearance :

For the Appellant/s : Ms. Leelawati Kumari, 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 for quashing the order dated 22.12.2018 passed by the learned Sub-Judge-VIII, Aurangabad in Title Suit No.302 of 2012 by which an application filed under Order 6 Rule 17 of the Code of Civil Procedure (for short 'CPC') by the plaintiff-respondents has been allowed but on cost of Rs.1,000/-.



2. It is submitted by the learned counsel for the defendant-petitioner that the trial court has erred in law while allowing the amendments sought for by the plaintiffs-respondents.

3. On perusal of the order impugned, it would be evident that the plaintiffs had sought amendment in the plaint by adding:-

- (a) figure "I to III" in the second line of para 1,
- (b) to delete figure 551 in schedule no. I and add in its place figure 511,
- (c) to add boundaries in the right side of each plot in schedule I to III.

4. The contention of the plaintiffs before the trial court was that due to inadvertence boundaries of the suit plots as well as schedule I to III in the second line of para 1 had not been mentioned, which was necessary for the adjudication of the suit. The proposed amendments are formal in nature and does not change the nature of the suit.

5. The defendant-petitioner contested the matter. He contended that the amendment was sought for without any basis. No documents in support of amendment had been filed. The boundaries of each plot sought to be amended by the plaintiffs do not tally with the alleged deed of sale of the plaintiffs. He contended that it is a settled a principle of law that no amendment should be allowed without any basis.



6. On hearing the parties, the trial court found that as far as the amendment sought for is in schedule I is concerned, the figure 551 has already been deleted earlier and in its place figure 511 has been inserted. Hence, it required no correction. As far as the other two amendments are concerned, it held that adding of figure I to III in second line of para in formal in nature and adding of boundaries in each plot mentioned in schedule I to III is necessary for ascertaining the suit plot and determining the real point of controversy completely between the parties and the same will not cause injustice to the defendants.

7. Having held so, the petition filed on behalf of the plaintiff under Order 6 Rule 17 was allowed, vide impugned order dated 22.12.2018 passed by the trial court passed by the trial court with cost and defendant has also been given liberty to file additional written statement.

8. It is well settled that while deciding an application for amendment ordinarily the court should not refuse bona fide, legitimate, honest and necessary amendments.

9. In **Pirgonda Hongonda Patil vs. Kalgonda Shidgonda Patil and Ors. [AIR 1957 SC 363]**, which still holds the field, it was held that all amendments ought to be allowed which satisfy the two conditions:-



(a) of not working injustice to the other side, and

(b) of being necessary for the purpose of determining the real questions in controversy between the parties.

10. Thus, a liberal approach is a general rule particularly in cases where the other side can be compensated with cost. Moreover, the amendments are allowed in the pleadings to avoid multiplicity of the litigation.

11. In that view of the matter, since there is no illegality in the order impugned whereby formal and necessary amendments sought for in the plaint has been allowed, I see no reason to interfere with the same in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

12. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.05.2019
Transmission Date	NA

