

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.436 of 2019

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Nathun Chaudhary son of Late Sanichar Passi @ Sanichar Chaudhary R/o
Mohalla-Manpur, Gopalganj Road, P.O. and P.S.-Buniyadganj, District-Gaya
... .. Petitioner

Versus

1. Ram Naresh Singh @ Ram Naresh Prasad Singh son of Late Durga Singh
2. Ashok Kumar Singh son of Late Durga Singh
3. Anand Kumar Singh son of Late Durga Singh

All resident of Mohalla-Manpur, Gopalganj Road, Ward No. 29, P.O.
and P.S.-Buniyadganj, Town and District-Gaya

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Shambhu Nath, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 19-07-2019

Heard learned counsel for the petitioner and
perused the record.

2. This application under Article 227 of the Constitution of India has been filed by the petitioner for setting aside the order dated 29.11.2018 passed by the learned Sub-Judge-VII, Gaya in Title Suit No.300 of 2009/363 of 2009 whereby the petition dated 27.07.2018 filed by the defendant-petitioner under Order 6 Rule 17 of the Code of Civil Procedure (for short 'CPC') for amendment in the written statement has



been rejected.

3. The contention of the petitioner is that the trial court ought to have allowed the amendment sought for by the defendant-petitioner as the same was filed at an early stage when even the issues were not framed.

4. The amendment sought for in the written statement by the defendant-petitioner, as stated in the application under Order 6, Rule 17 is as under:-

"In para-2 of the written statement in the second line after deleting full stop the following be added.-

"because on the basis of the order passed in First Appeal No.192010 which is per in curium".

5. The trial court rejected the application of the defendant-petitioner on the ground that the amendment sought for is a point of law, which the defendant may argue at the time of argument.

6. It is well settled principle of law that a point of law, which is available to the party can be argued at proper stage even if the same does not find form part of the pleading.

7. Since there is no prayer for making any amendment in respect of the facts pleaded in the written statement, I see no error in the impugned order passed by the



court below.

8. The application lacks merit. It is dismissed,
accordingly.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.07.2019
Transmission Date	

