

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.533 of 2019

1. Jai Krishna Yadav Son of Late Sridhar Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District- Araria.
2. Vikash Yadav Son of Late Sridhar Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District- Araria.
3. Chandan Kumar Yadav Son of Late Sridhar Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District- Araria.
4. Jairam Devi Wife of Rajendra Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District- Araria.
5. Pushpa Devi wife of Baldeo Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District- Araria.
6. Rambha Devi Wife of Gopal Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District- Araria.
7. Niromani Devi Wife of Chandar Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District- Araria.
8. Ganga Devi Wife of Late Sridhar Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District- Araria.
9. Chandra Nand Yadav Son of Late Ram Prasad Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District- Araria.
10. Indradeo Yadav Son of Late Ram Prasad Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District- Araria.
11. Brahmdeo Yadav Son of Late Ram Prasad Yadav Resident of Village- Kanhaili, P.S. Narpatganj, District- Araria.

... .. Petitioners

Versus

1. Anmol Yadav Son of Dev Narayan Yadav Resident of Village- Sheikhpura, P.S. Bhargama, District- Araria.
2. Khokha Yadav Son of Dev Narayan Yadav, Resident of Village- Sheikhpura, P.S. Bhargama, District- Araria.
3. Ramesh Yadav Son of Dev Narayan Yadav, Resident of Village-- Sheikhpura, P.S. Bhargama, District- Araria.
4. Nirmal Yadav Son of Dev Narayan Yadav, Resident of Village- Sheikhpura, P.S.- Bhargama, District- Araria.
5. Bam Bam Yadav Son of Dev Narayan Yadav, Resident of Village-



- Sheikhpura, P.S.- Bhargama, District- Araria.
6. Nagarmal Yadav Son of Dev Narayan Yadav Resident of Village- Sheikhpura, P.S.- Bhargama, District- Araria.
 7. Ramkrishna Yadav Son of Gopal Rai Resident of Village- Koskapur, P.S.- Narpatganj, District- Araria.
 8. Upendra Yadav Son of Sarup Yadav Resident of Village- Dargahiganj, P.S.- Narpatganj, District- Araria.
 9. Surendra Yadav Son of Sarup Yadav Resident of Village- Dargahiganj, P.S.- Narpatganj, District- Araria.
 10. Shiv Ram Yadav Son of Late Suryanarayan Yadav Resident of Village- Khabdah, P.S.- Narpatganj, District- Araria.
 11. Damodar Yadav Son of Late Suryanarayan Yadav Resident of Village- Khabdah, P.S.- Narpatganj, District- Araria.
 12. Bhawar Yadav Son of Late Suryanarayan Yadav Resident of Village- Khabdah, P.S.- Narpatganj, District- Araria.
 13. Kameshwari Yadav Son of Late Chhedi Yadav Resident of Village- Khabdah, P.S.- Narpatganj, District- Araria.
 14. Maneshwari Yadav Son of Late Chhedi Yadav Resident of Village- Khabdah, P.S.- Narpatganj, District- Araria.
 15. Anandi Sharma Son of Shital Sharma Resident of Village- Farhi, P.S.- Narpatganj, District- Araria.
 16. Biranchi Sharma Son of Shital Sharma Resident of Village- Farhi, P.S.- Narpatganj, District- Araria.
 17. Kishan Sharma Son of Shital Sharma Resident of Village- Farhi, P.S.- Narpatganj, District- Araria.
 18. Kishori Sharma Son of Shital Sharma Resident of Village- Farhi, P.S.- Narpatganj, District- Araria.
 19. Jamruddin Nadaf Son of Ghataru Miya Resident of Village- Fataipur, P.S.- Narpatganj, District- Araria.
 20. Narul Miyan Son of Rafid Mian Resident of Village- Fataipur, P.S.- Narpatganj, District- Araria.
 21. Amrul Miyan Son of Rafid Mian Resident of Village- Fataipur, P.S.- Narpatganj, District- Araria.
 22. Raghuni Yadav Son of Janak Yadav Resident of Village- Farhi Tamganj, P.S.- Narpatganj, District- Araria.
 23. Yoganand Yadav Son of Janak Yadav Resident of Village- Farhi Tamganj,



P.S.- Narpatganj, District- Araria.

.... Respondents 1st Set.

24. Aserfi Yadav Son of Late Mojhi Lal Yadav Resident of Village- Kanhaili, P.S.- Narpatganj, District- Araria.
25. Dev Narayan Yadav Son of Late Mojhi Lal Yadav Resident of Village- Kanhaili, P.S.- Narpatganj, District- Araria.
26. Panna Chand Yadav Son of Late Mojhi Lal Yadav Resident of Village- Kanhaili, P.S.- Narpatganj, District- Araria.
27. Amar Chand Yadav Son of Late Mojhi Lal Yadav Resident of Village- Kanhaili, P.S.- Narpatganj, District- Araria.
28. Manik Chand Yadav Son of Late Mojhi Lal Yadav Resident of Village- Kanhaili, P.S.- Narpatganj, District- Araria.

... .. Intervener Respondents/Respondents

Appearance :

For the Petitioners : Mr.Mrigendra Kumar, Advocate
For the Respondent : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date : 30-08-2019

Heard learned counsel for the petitioners.

2. This application under Article 227 of the Constitution of India has been filed by the petitioners challenging the order dated 01.02.2019 passed by the learned Additional Munsif 1st, Araria in Title Suit No. 12151 of 1964 whereby the petition under Order 6 Rule 17 of the Code of Civil Procedure (for short 'CPC') filed by the petitioners for certain amendments in the plaint has been rejected.

3. Learned counsel for the petitioner submitted that the amendment sought for are formal in nature and they do not



change the nature of the suit. The proposed amendments are necessary for just decision of the case. The court below ought to have appreciated that the amendments sought for were necessary to avoid multiplicity of litigation. He pleaded that the court below has been vested with the power to allow amendment in plaint, but it has refused to exercise its jurisdiction and has mechanically dismissed the application filed under Order 6 Rule 17 of the CPC.

4. Having heard learned counsel for the petitioners and perused the order impugned as also the amendment petition filed under Order 6 Rule 17 of the CPC, I find that a vague prayer was made by the petitioners seeking amendment in the plaint. It is not mentioned as to how the proposed amendments sought for by the petitioners were necessary for the purpose of determining the real questions in controversy between the parties.

5. On query, learned counsel for the petitioner fairly stated that he is not aware as to the whether the trial has commenced or not. There is no such pleading in the application filed under Order 6 Rule 17 of the CPC.

6. Under the circumstances, if the court below has held that the plaintiff is not clear in the petition of amendment in the suit and not clear for cause of action in the petition, no illegality can be found with the order impugned. The court below



has rightly refused the prayer made by the petitioner as the suit is quite old.

7. It is true that the court has jurisdiction to allow amendment of pleadings. However, before allowing the same, pre-condition is that the same may be necessary for the purpose of determining the real questions of controversies between the parties. In absence of any pleading in this regard, I am of the opinion that no interference is warranted in the order passed by the court below.

8. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.09.2019
Transmission Date	

