

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16238 of 2012

1. Wakil Yadav Son Of Late Mahesh Yadav Resident Of Mohalla - Bhikhanpur, Lichibagan, P.S. - Kotwali, District - Bhagalpur At Present Residing At Sachhidanand Nagar South Of Barari Chhoti Railway Line P.S. Tilkamanjhi, Distt - Bhagalpur
2. Mukti Yadav Son Of Late Mahesh Yadav Resident Of Mohalla - Bhikhanpur, Lichibagan, P.S. - Kotwali, District - Bhagalpur At Present Residing At Sachhidanand Nagar South Of Barari Chhoti Railway Line P.S. Tilkamanjhi, Distt - Bhagalpur

... .. Petitioner/s

Versus

1. Ganauri Mandal S/O Late Bhola Mandal Resident Of Village - Laluchak Angari, P.S. - Lodipur Sabour, District - Bhagalpur
2. Bhadddhi Mandal S/O Late Bhola Mandal Resident Of Village - Laluchak Angari, P.S. - Lodipur Sabour, District - Bhagalpur
3. Most. Sudha Devi W/O Karoo Mandal Resident Of Village - Laluchak Angari, P.S. - Lodipur Sabour, District - Bhagalpur
4. Gudiya Kumari Minor Daughter Of Late Karoo Mandal And Represented Through Their Natural Guardian And Mother, Most, Resident Of Village - Laluchak Angari, P.S. - Lodipur Sabour, District - Bhagalpur
5. Daiyji Kumari Minor Daughter Of Late Karoo Mandal And Represented Through Their Natural Guardian And Mother, Most, Resident Of Village - Laluchak Angari, P.S. - Lodipur Sabour, District - Bhagalpur
6. Shekhar Mandal Minor Son Of Late Karoo Mandal And Represented Through His Natural Guardian And Mother, Most Sudha D Resident Of Village - Laluchak Angari, P.S. - Lodipur Sabour, District - Bhagalpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Radha Raman Verma
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 06-09-2019

The present writ petition has been filed for setting aside the order dated 19.6.2012 passed by the learned court of Munsif 1st, Bhagalpur in Title Suit No. 118 of 1991 whereby and whereunder the petition of the plaintiff for amendment of the



pleadings, made under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure has been rejected on the ground that the same has been filed after a huge delay.

2. The learned counsel appearing for the respondents submits that the amendment sought to be made by the plaintiff by his petition dated 14.3.2012, will result in changing the nature of the suit, in case the amendment petition is allowed.

3. This Court finds that as far as the question of delay in filing the amendment petition is concerned, the parties can file a petition under Order 6 Rule 17 of the Code of Civil Procedure for amendment, at any stage of the proceedings.

4. At this stage, the learned counsel for the parties submit that the order dated 19.6.2012 be quashed and the matter be remanded back to the learned court below for examining the aforesaid petition of the plaintiff dated 14.3.2012, filed under Order 6 Rule 17 of the Code of Civil Procedure, 1908, especially on the issue as to whether the amendment, being so sought by the plaintiff, would change the nature of the suit or not.

5. Accordingly, the order dated 19.6.2012 passed by the learned court of Munsif 1st, Bhagalpur in Title Suit No. 118 of 1991 is set aside and the matter is remanded back to the learned



court below to re-examine the prayer of the plaintiff, made vide petition dated 14.3.2012, filed under Order 6 Rule 17 of the Code of Civil Procedure, especially considering the issue as to whether the amendment being sought for shall change the nature of the suit or not, and pass suitable orders, thereupon, in accordance with law, on merits.

6. It is clarified that in case, the learned trial court comes to a finding that the nature of the suit would change, if the amendment so sought by the plaintiff is allowed, then the said petition of the plaintiff dated 14.3.2012 shall not be entertained.

7. The writ petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	1.10.2019
Transmission Date	NA

