

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7165 of 2013

1. Smt. Prabha Singh, Widow of Late Ashok Kumar
 2. Rajesh Kumar @ Papu
 3. Rajiv Kumar,
Both Sons of Late Ashok Kumar,
All Resident Of Mohalla Navarashtra Press, Pirmohani, Near Bhattacharya
Road, Police Station- Gandhi Maidan, P.O.- Kadam Kuan, District- Patna,
800001
- Petitioner/s

Versus

Lal Babu Akela, Son of Late Doman Rai, Resident of Mohalla West Indra
Nagar, Nauratanpur, Police Station- Jakkanpur, P.O.- G.P.O. District- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Purnendu Singh, Advocate
For the Respondent/s : Mr. Umesh Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 18-04-2019 Heard learned counsel for the petitioners and the
respondent.

2. The petitioners have approached this Court
challenging the order dated 22.01.2013 passed by the Sub-
Judge-X, Patna in Title Suit No. 57 of 2008, whereby the
learned Sub-Judge-X, Patna rejected the amendment sought for
by the defendants in the written statement.

3. Mr. Purnendu Singh, learned counsel for the
petitioners has drawn the attention of the Court to the order
passed by the learned Sub-Judge-X, Patna. He submits that there
is absolutely no discussion in the order that the amendment
sought is designed to change the nature of the suit. Referring to



the judgment of the Apex Court in the case of **Baldev Singh and Others Vs. Manohar Singh and another**, reported in (2006) 6 SCC 498, he submits that the amendment is liberally allowed in the ends of justice and it is refused only when the amendment is designed to change the nature of suit. He submits that the judgment of the Apex Court was rendered after amendment in Order 6 Rule 17 of the C.P.C. and as such in the instant case the judgment of the Apex Court in the **Baldev Singh and Others** (Supra) has application.

4. Learned counsel for the respondent submits that the amendment will cause delay in disposal of the suit and, therefore, he should be allowed only on payment of cost.

5. Considering the totality of the facts situation, the Court finds that the amendment in the suit is not going to change the nature of the suit and amendment should be allowed for the ends of justice. However, the Court finds substance in the claim of the respondent that the amendment should be allowed at the cost, which was assessed as Rs.1,000/-.

6. Accordingly, the writ application is allowed. The order dated 22.01.2013 passed by the Sub-Judge-X, Patna in Title Suit No. 57 of 2008 is set aside. The court below is required to take steps for early disposal of the suit with



opportunity to the parties to lead evidence and make submission after amendment in the written statement as indicated herein above. The petitioner shall deposit the amount in the court below and the parties may extend full co-operation so that the suit may be disposed of at the earliest preferably within a period of six months from the date of receipt/production of a copy of this order.

7. With the aforesaid, this application stands disposed of.

(Anil Kumar Upadhyay, J)

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