

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.1643 of 2019**

---

1. Yashwant Kumar Singh, S/o Shailendra Prasad Singh, Resident of Village-Shekhopur, P.S.-Warisnagar, District-Samastipur.
2. Phulwant Kumar Singh, S/o Shailendra Prasad Singh, Resident of Village-Shekhopur, P.S.-Warisnagar, District-Samastipur.

... .. Appellant/s

Versus

1. Most. Veena Devi, W/o Late Baidyanath Prasad Singh, Resident of Village-Sari, P.S.-Warisnagar, District-Samastipur.
2. Navin Kumar Singh, S/o Late Baidyanath Prasad Singh, Resident of Village-Sari, P.S.-Warisnagar, District-Samastipur.
3. Praveen Kumar Singh, S/o Late Baidynath Prasad Singh, Resident of Village-Sari, P.S.-Warisnagar, District-Samastipur.
4. Simmi Singh, D/o Late Baidyanath Prasad Singh, W/o Nirbhay Singh, Resident of Village-Bhawanipur, P.O.-Nagarpur, P.S.-Bhagalpur, District-Bhagalpur.
5. Kumari Rashmi Singh, D/o Late Baidyanath Prasad Singh, W/o Rajesh Singh, Resident of Village-Lalpur Choutham, P.S. Choutham, District-Khagaria.
6. Most. Sheela Devi, W/o Late Amrit Kishore Singh, Resident of Village-Auliarpur Pitaujia, P.S.-Warisnagar, District-Samastipur.
7. Rajeev Kumar, son of Late Amrit Kishornath, Resident of Village-Auliarpur Pitaujia, P.S.-Warisnagar, District-Samastipur.
8. Sanjeev Kumar, son of Late Amrit Kishornath, Resident of Village-Auliarpur Pitaujia, P.S.-Warisnagar, District-Samastipur.
9. Rahul Kumar, son of Late Amrit Kishornath, Resident of Village-Auliarpur Pitaujia, P.S.-Warisnagar, District-Samastipur.
10. Mukul Kumar, son of Late Amrit Kishornath, Resident of Village-Auliarpur Pitaujia, P.S.-Warisnagar, District-Samastipur.
11. Devendra Prasad Singh, S/o Late Shambhu Prasad Singh, Resident of Village-Jirwa Kala, P.S. Shor Bazar, District-Saharsa. At present resident of Village-Sari, P.S.-Warisnagar, District-Samastipur.
12. Sunaina Devi, W/o Late Mahendra Prasad Singh, Resident of Village-Jirwa Kala, P.S. Shor Bazar, District-Saharsa. At present resident of Village-Sari, P.S.-Warisnagar, District-Samastipur.

... .. Respondent/s

---

**Appearance :**

For the Appellant/s : Mr. Uma Shankar Singh, Adv  
Mr.Dilip Kumar Roy, Adv

For the Respondent/s :

---

**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**



**ORAL JUDGMENT**

**Date : 26-11-2019**

Heard learned counsel for the defendants (1<sup>st</sup> set)-petitioners.

2. The present writ petition has been filed for the following reliefs as formulated by the defendants (1<sup>st</sup> set)-petitioners \_\_

*“(i) For the issuance of an appropriate writ to quash the order dated 25.07.2019 in T.S. No. 197/2011/Reg. No. 815/2014, rejecting application of amendment sought by (defendant no.1 and 2) petitioner in the written statement by the Sub Judge-1, Samastipur (contained in Annexure-5).*

*(ii) For the issuance of any other appropriate writ/order as your Lordships may deem fit and proper to allow the amendment sought by the (defendants 1<sup>st</sup> set) petitioner in the written statement.*

*(iii) For the issuance of any other writ/order as your Lordships may deem fit and proper for the ends of justice.”*

3. Learned counsel for the defendants(1st set)-petitioners submits that the learned Court below has illegally exercised its jurisdiction in rejecting the prayer for amendment of the written statement which ought to have been considered more liberally, more so when all that was sought by way of amendment was to state the name of the vendor of the property in question.

4. Having heard learned counsel for the defendants(1st set)-petitioners and on consideration of the materials on record, this Court is unable to find any illegality in the order passed by the learned Court below. The proviso to Order 6 Rule



17 specifically mandates that no application for amendment shall be allowed after the trial has commenced except where the matter could not be raised earlier despite due diligence. The suit is of the year 2011 but learned counsel for the defendants(1st set)-petitioners has failed to demonstrate the exercise of due diligence within statutory time for filing the amendment petition. From the order of learned Court below it transpires that the Suit is at the stage of evidence of the defendants(1st set)-petitioners. No fault can therefore be found with the impugned order dated 25.07.2019 rejecting the amendment petition of the defendants-1st set-petitioners.

5. The writ petition stands dismissed.

**(Vikash Jain, J)**

Chandran/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 06.12.2019 |
| Transmission Date | NA         |

