

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1649 of 2019**

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Bino Rai @ Bino Mahto Son of late Ramphal Rai, Resident of Village-
Gangraho, P.O.- Gangraho, P.S. Bakhri, District- Begusarai.

... .. Defendant-Petitioner

Versus

1. Yogendra Prasad Singh Son of late Sukhdeo Singh, Resident of Village-
Gangraho, P.O. Gangraho, P.S. Bakhri, District- Begusarai.
2. Binod Prasad Singh, Son of late Chandradeo Resident of Village-
Gangraho, P.O. Gangraho, P.S. Bakhri, District- Begusarai.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Binay Kumar Thakur, Advocate.

For the Respondent : Mr.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 26-11-2019

The present petition has been filed *"for quashing the order dated 28.08.2019 passed by Sri Kumar Rishikesh, Sub-Judge, Bakhri, Begusarai in Title Suit No. 76 of 2008 by which the learned Court has rejected application of petitioner dated 11.06.2018 filed under Order-VI, Rule 17 read with Section 151 C.P.C. for amendment in the written statement"*.

2. Learned counsel for the defendant-petitioner submits that the learned court below has mechanically rejected the amendment petition without appreciating that amendments of formal and minor nature were being sought and would not have materially impacted the course of proceeding.

3. Having heard learned counsel for the defendant-petitioner and upon consideration of the material on record, this



Court is unable to find any illegality in the impugned order. The proviso to Order VI, Rule 17 statutorily mandates that *“no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”* In the present case, the suit is of the year 2008 and it is not in dispute that trial has already commenced. The defendant-petitioner failed to demonstrate the exercise of due diligence in attempting to file his written statement within the statutory time. No satisfactory plea in this regard has been made also before this Court at the time of hearing.

4. In the above circumstances, the petition is devoid of merit and stands dismissed.

(Vikash Jain, J)

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