

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1642 of 2019

1. Jagmania Devi Wife of Late Ramashish Singh Resident of Village-Makhdumpur, Murgia Tola, Gate No. 87, P.S.-Digha, P.O.-Digha Ghat, District-Patna at present residing at C/o Bimlesh Kumar, Village-Maulanipur, P.S.-Maner, District-Patna.
2. Smt. Kumkum Ranjan, Wife of Sri Umesh Ranjan Resident of Patlapur, P.S.-Shahpur, P.O.-Madhopur, District-Patna, at present residing at Flat No.-7MF, 4/30 Mohalla Bahadurpur Housing Colony, Kankarbagh, P.S.-Agam Kuan, District-Patna.
3. Smt. Sharmila Devi Wife of Dharendra Kumar, Resident of Village and P.O.-Pertha, Pipra, District-Patna.
4. Smt. Shanti Devi Wife of Sri Pramod Kumar Sinha, Resident of Village and P.O.-Malikpur, P.S.-Koraipersui, District-Nalanda.
5. Shri Sanjeev Kumar Son of Sri Surendra Prasad Singh Resident of Mohalla-Mainpura (Opposite Murti House), P.O.-G.P.O., P.S.-Patliputra, District-Patna.

... .. Appellant/s

Versus

1. Bhuneshwar Singh Son of Late Bhagwan Singh Resident of Village and P.O.-Mittanchak, P.S.-Gopalpur (Gaurichak), District-Patna.
2. Ram jee Singh Son of Late Bhagwan Singh Resident of Village and P.O.-Mittanchak, P.S.-Gopalpur (Gaurichak), District-Patna.
3. Dinesh Kumar Son of Late Bhagwan Singh Resident of Village and P.O.-Mittanchak, P.S.-Gopalpur (Gaurichak), District-Patna,
4. Ashok Kumar Singh Son of Late Bhagwan Singh Resident of Village and P.O.-Mittanchak, P.S.-Gopalpur (Gaurichak), District-Patna,

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dileep Kumar Singh

For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 26-11-2019

Heard learned counsel for the defendants-petitioners.

2. The present writ petition has been filed for “*setting aside the order dated 25.09.2019 (Annexure-6) passed in T.S. No. 835 of 2011 by the learned Sub Judge-I, Patna by which petition*”



dated 03.06.2019 filed by plaintiff under Order VI, Rule 17 of the CPC praying therein to amend the plaint is allowed."

3. Learned counsel for the defendant-petitioners submits that the learned Court below has exercised its jurisdiction illegally in allowing the amendment petition of the plaintiffs-respondents, inasmuch as they have approached for amendment after considerable delay. The facts relating to the sale of the suit property by the defendant no. 1 was well known much prior to the filing of the Suit itself. Moreover, the learned Court below has also lost sight of the order of the Hon'ble Supreme Court dated 03.12.2018 while considering the dispute relating to mutation in SLP (C) No. 31172/2018, *inter alia*, directing the trial Court to dispose of the Title Suit No. 835 of 2011 preferably within a period of one year thereof. It is submitted that allowing the amendment petition at this belated stage has and will cause inordinate delay in disposal of the Suit.

4. Having heard learned counsel for the defendants-petitioners and on consideration of the materials on record, this Court is unable to find any illegality in the impugned order dated 25.09.2019. Learned counsel for the defendant-petitioners has not satisfactorily explained how, by reason of the amendment petition having been allowed, the nature of the Suit has changed. The learned trial Court has rightly relied on a decision of the Hon'ble Supreme Court in the case of *Pankaja and another vs.*



Yellappa(dead) by lrs. and others, AIR 2004 SC 4102 in which it has been held that “*amendment of pleading should not be disallowed merely because it is opposed as barred by limitation.*” It has also been found that the said amendment will not change the nature of the Suit and in the above circumstances, this Court is not inclined to interfere in the matter.

5. The writ petition stands dismissed.

(Vikash Jain, J)

Chandran/-

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

