

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CIVIL MISCELLANEOUS JURISDICTION No.1700 of 2019**

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1. Kari Devi Wife of Late Rajendra Jamadar @ Rajendra Zamadar Resident of Village- Tetarpur, P.S.- Khizersarai, District- Gaya.
2. Nand Kishore Prasad Son of Late Rajendra Jamadar @ Rajendra Zamadar Resident of Village- Tetarpur, P.S.- Khizersarai, District- Gaya.
3. Rahul Kumar Son of Late Rajendra Jamadar @ Rajendra Zamadar Resident of Village- Tetarpur, P.S.- Khizersarai, District- Gaya.
4. Guddu Kumar Son of Late Rajendra Jamadar @ Rajendra Zamadar Resident of Village- Tetarpur, P.S.- Khizersarai, District- Gaya.

.. ... Appellants/petitioners

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms, Bihar, Patna.
2. The Collector Gaya.

... ... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Shailesh Kumar  
For the Respondent/s : Mr. Md. Khurshid Alam (AAG-12)

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

**ORAL JUDGMENT**

**05-12-2019**            The present petition has been filed “*for quashing of order dt. 13.05.2019 passed by the learned court of Additional District Judge-VII, Gaya in Title Appeal No. 14/14/12/12 whereby a petition dated 03.04.2019 filed on behalf of the appellants-petitioners U/O VI Rule 17 CPC for amendment in the original plaint to the extent that wherever in para-5 and 5 of the plaint the word “Mokarrirdar” is used, it may be amended as word “Landlord” has been rejected*”.

2. Learned counsel for the petitioners submits that learned



appellate court has erred in rejecting the amendment petition without appreciating that it was self-evident from the plaint itself that Laxman Prasad Sahi was one of the *Mokarridar* and ex-landlord. It is submitted that the proposed amendment was of formal nature in order to rectify the mistake in the description of the said ex-landlord, who alone was competent to file return under law. It is further submitted that the provision of Order 6 Rule 17 CPC prior to amendment in 2002 would apply as the suit has been filed in the year 1993. It is submitted that the appeal is a proceeding in continuation of the suit and as such, the amendment petition is maintainable at the stage of appeal.

3. Heard learned counsel for the petitioners and considered the materials on record.

4. From the impugned order dated 13.05.2019, it transpires that the title suit has been dismissed on technical ground, namely, that the uncle of the plaintiff, who was a necessary party had not been impleaded and that the suit was barred by limitation. It has therefore been observed that the proposed amendment has no bearing for the purposes of determining the real question in the appeal as the title suit has not been dismissed on merit, but on technical ground.

5. As such, this Court does not find any infirmity or



illegal exercise of jurisdiction in the impugned order.

6. The petition stands dismissed.

**(Vikash Jain, J)**

HR/-

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