

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1652 of 2019

1. Suresh Sah Son of late Bihari Sah, Resident of Village- Tenduni Chouck, Nasriganj Road, Police Station- Bikramganj, District- Rohtas.
2. Kaulesiya Devi, Wife of late Bihari Sah, Resident of Village- Tenduni Chouck, Nasriganj Road, Police Station- Bikramganj, District- Rohtas.
3. Umesh Sah, Son of late Bihari Sah, Resident of Village- Tenduni Chouck, Nasriganj Road, Police Station- Bikramganj, District- Rohtas.
4. Dhanjee Sah, Son of Suresh Sah, Resident of Village- Tenduni Chouck, Nasriganj Road, Police Station- Bikramganj, District- Rohtas.

... .. Plaintiffs/Petitioners

Versus

1. Chandrashekhar Singh Son of late Manbodh Ray, Resident of Village- Tenduni, Police Station- Bikramganj, District- Rohtas.
2. Akshaybar Singh, Son of Manbodh Ray, Resident of Village- Tenduni, Police Station- Bikramganj, District- Rohtas.

..Defendants/Respondents

3. Ayodhya Prasad, Son of late Hiralal Sah, Resident of Village and Post Office- Durgadih, Police Station- Bikramganj, District- Rohtas.
4. Madan Prasad Vaishya, Son of late Hiralal Sah, Resident of Village and Post Office- Durgadih, Police Station- Bikramganj, District- Rohtas.
5. Ramjee Prasad, Son of late Hiralal Sah, Resident of Village and Post Office- Durgadih, Police Station- Bikramganj, District- Rohtas.
6. Bharat Prasad, Son of late Hiralal Sah, Resident of Village and Post Office- Durgadih, Police Station- Bikramganj, District- Rohtas.

..Intervenor-Defendants/Respondents

7. Jhanjho Kuer, Wife of late Hawaldar Singh, Resident of Village- Tenduni, Police Station- Bikramganj, District- Rohtas.
8. Binod Sah, Son of late Sudama Sah, Resident of Village- Tenduni, Police Station- Bikramganj, District- Rohtas.
9. Parbati Devi, Wife of Vinod Sah, Resident of Village- Hasawadih, Police Station- Piro, District- Bhojpur.
10. Vimla Devi, Wife of Jitendra Sah, Resident of Village- Dabarua, Police Station- Jagdishpur, District- Bhojpur.

... ..Defendants/Respondents

Appearance :

For the Appellant/s : Mr.Rajani Kant Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

28-11-2019

The present petition has been filed “*for setting aside the order dated 22.10.2019 passed by learned Munsif, Sub-Divisional Civil Court, Bikramganj, District Rohtas in T.S.No.*”



99 of 1987 as contained in Annexure-4 whereby and whereunder learned Munsif, Bikramganj, has been pleased to rejected the amendment petition dated 30.09.2019 filed on behalf of the plaintiffs/petitioners under Order 6 Rule 17 and Section 151 C.P.C.”

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

3. Having heard learned counsel for the plaintiffs/petitioners and upon consideration of the materials on record, this Court does not find any illegality in the impugned order. The proviso to Order VI Rule 17 CPC 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 amendment of trial.”* In the present case, the suit is of the year 1987 and it is not in dispute that the trial is at the stage of argument after closing of evidence of the defendants. The plaintiffs/petitioners failed to demonstrate the exercise of due diligence in filing the



amendment petition and to bring on record certain sale deeds executed during the pendency of the suit. The plaintiffs/petitioners have not whispered anything about the date on which they gained knowledge about such sale deeds and due diligence is not established.

4. The petition stands dismissed.

(Vikash Jain, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.12.2019
Transmission Date	

