

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8829 of 2014

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Rajendra Pandey son of Satya Narayan Pandey Resident of Lohia Nagar P.S. -
Kankarbagh District - Patna.

... .. Petitioner/s

Versus

1. Dr. R.p. Upadhyay and Ors Son of Late B. Upadhyay
2. Ajay Upadhaya Son of Dr. R.P. Upadhyay. Both are resident of village - Pakarihar, Bahuarwar, P.S. - Jogapatti, District - West Champaran. At present residing at Nandanpuri Khajpura, P.S. - Sri Krishnapuri, District - Patna.
3. Sanjay Kumar Son of Dr. R.P. Upadhyay resident of village - Pakarihar, Bahuarwar, P.S. - Jogapatti, District - West Champaran. At present residing at D. 702, Anandlok, Mayur Bihar, New Delhi , 91.
4. Puspa Kumari
5. Ragini Kumari Both daughters of Rajendra Pandey
6. Anuj Kumar Son of Rajendra Pandey All are residence of Lohia Nagar P.S. - Kankarbagh, District - Patna.
7. Ramdeo Paswan @ Kirshnadeo Paswan Son of Late Mishri Paswan residence of Gadaipur, P.S. - Naubatpur, District - Patna.
8. Sudarshan Yadav
- 9.1. Subhash Yadav, Son of Late Brajbhushan Yadav, R/o Raghunathpur, Bhelura, P.S. Naubatpur, District- Patna.
10. Anil Kumar Yadav, Husband of Late Ganita Devi,
1.
10. Lav Kush Yadav, S/o Late Ganita Devi, Both are R/o Raghunathpur,
2. Bhelura, P.S. Naubatpur, District- Patna.
11. Jawahar Yadav, Husband of Late Rukmini Devi,
1.
11. Ranjan Kumar, Son of Late Rukmini Devi, Both are R/o Raghunathpur,
2. Bhelura, P.S. Naubatpur, District- Patna.
12. Dharmnath Tiwari Son of Sital Tiwari residence of village - Tiwarichak, P.S. - Naubatpur, District - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Jha, Advocate Mr. Surya Kant Mishra, Advocate
For the Respondent/s	:	Mr. Abhay Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER



10 06-03-2020

Heard learned counsel for the parties.

2. This application under Article 227 of the Constitution of India has been filed seeking quashing of an order dated 11.03.2014 passed in Title Suit No. 91 of 91 whereby learned Sub Judge-III, Danapur, has rejected an application dated 19.11.2013 whereby the petitioner had sought amendment in the written statement filed on his behalf. The petitioner is one of the defendants in the said Title Suit.

3. Learned counsel appearing on behalf of the petitioner, referring to the impugned order, has submitted that the learned court below has not even discussed the nature of amendment, which the petitioner had sought in the written statement, while rejecting the petitioner's application for amendment. He has submitted that merely on the ground of delay, the application seeking amendment has been rejected by the court below without assigning any other reasons and the reason as to whether, by seeking amendment, the petitioner intended to change the stand, which was taken originally in the written statement.

4. Notices were issued to the contesting respondents. Despite service of notices, the respondents have not appeared on call.



5. On perusal of the impugned order, it can easily be seen that the court below has not even considered the nature of amendment which the petitioner was seeking in the written statement with a vague observation that no document was filed in support of the amendment which was sought, the application under Order VI, Rule 17, has been rejected.

6. Considering the above, the impugned order is set aside. The matter is remanded back to the court below to pass an order afresh on the petitioner's application seeking quashing in the written statement.

7. Since the Title Suit is pending since 1991, it is observed that the court below may make all possible endeavour to ensure that the Title Suit is decided expeditiously.

8. This application is, accordingly, allowed.

(Chakradhari Sharan Singh, J)

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