

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.38 of 2019

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Mithilesh Narayan Verma @ Mithalesh Narayan Verma Son of Jagdish Narayan Verma, Resident of Village/Mohalla- Rajendra Nagar, P.O.P.S.- Madhubani, District- Purnea.

... .. Petitioner/s

Versus

1. Gauri Prasad Sah S/o Late Rajendra Pd. Sah, Resident of Village- Jamalpur, P.O.P.S.- Gogari, District- Khagaria.
2. Chandra Deep Nr. Sinha, S/o Late Chet Narayan, at present resident of Mohalla- Post Mortem Gali, Taj Road, P.O.P.S.- Tajpur, District- Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sandeep Patil

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 22-01-2020 The petition filed on 05.01.2019 is listed for hearing
for the first time today before the Court.

Petitioner has prayed for the following relief:

“For quashing the order dated 01.08.2018/25.10.2018 passed by the learned Munsiff, Gogari, Khagaria in Title Suit No. 20 of 2007 contained in Annexure-1, whereby and whereunder the Munsiff, Gogari, Khagaria dismissed the petitioner’s petition Order-VI Rule 17 dated 01.08.2018 and petitioner filed petition dated 06.09.2018 under Section 152 C.P.C., the learned court below passed order dated 25.10.2018 modify



the type error order dated 01.08.2018.”

Having heard learned counsel for the petitioner, this Court does not find any reason sufficient enough to interfere with the impugned order dated 01.08.2018/25.10.2018 passed by the learned Munsiff in Title Suit No. 20 of 2007 rejecting the petitioner/plaintiff's application seeking amendment of the plaint.

There is neither any perversity nor any illegality in the impugned order. The trial court has dismissed the application by passing a reasoned order after considering the material available on the entire record. Plaintiff had alleged that encroachment carried out by the defendant is to the extent of 6 feet, which fact he sought to amend by way of amendment, to be that of 7 feet 8 inch.

The trial court has found the plaintiff to have repeatedly carried out the amendments and as such application for amendment was not allowed.

In any event, what is the extent of encroachment is to be proved by the plaintiff by way of evidence during trial, which for one reason or the other is being delayed.

Needless to add, the suit was filed way back in the year 2007 and application for amendment was filed in the year



2018. Hence, the court below rightly rejected the application.

Accordingly, the petition is disposed of in the
aforesaid terms.

(Sanjay Karol, CJ)

sujit/-

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