

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.57 of 2020**

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1. Karuneshwar Pandey Son of Sri Akhileshwar Pandey, Residing at Ward No.-08, Gram-Mathiya Brit Bandobasti, P.O.-Mathiya Brit, P.S.-Majhauiliya, District-West Champaran.
 2. Akhileshwar Pandey, Son of Late Krishna Mohan Pandey, Residing at Ward No.-08, Gram-Mathiya Brit Bandobasti, P.O.-Mathiya Brit, P.S.-Majhauiliya, District-West Champaran.

... .. Defendants/Appellants/Petitioners

Versus

Dhruwa Narain Pandey S/o Late Sheopujan Pandey, Residing at Village-Mathiya brit, P.O.-Mathiya brit, P.S.-Majhauiliya, District-West Champaran.

... .. Plaintiff/Appellant/Respondent

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Appearance :

For the Petitioners : Mr. Shakti Suman Kumar, Advocate.

For the Respondent :

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 03-02-2020

The present application has been filed “*for setting aside the order dated 23.09.2019 passed in Title Appeal No. 44 of 2017/CIS 44 of 2017 by the learned 4th Additional District Judge, West Champaran, Bettiah, whereby and whereunder the learned court below has rejected the petition dated 16.03.2019 filed on behalf of the petitioners for amendment of the written statement.*”

2. Learned counsel for the defendants/appellants/petitioners submits that the learned appellate court has erred in partially rejecting their amendment petition with reference to the proposed amendment no. 2. It is submitted that by such amendment, it was merely sought to clarify the manner in which the defendants/appellants/petitioners were in possession of the suit land, stating that they had constructed a *pucca* house in which



two rooms had been given out on rent and they were residing in another part of the house with family. It is submitted that the learned appellate court ought to have appreciated that no prejudice would be caused to anyone by allowing the amendment petition.

3. Having heard learned counsel for the defendants/appellants/petitioners and on consideration of the materials on record, this Court is not inclined to interfere in the matter. The learned appellate court has opined that the amendment petition has been filed merely to linger the matter. Such amendment petition was not filed at any stage during the trial. The defendants/appellants/petitioners therefore failed to satisfy that the amendment petition could not be filed at the earlier stage despite exercise of due diligence as contemplated in Order VI Rule 17 of the Civil Procedure Code.

4. It is well settled that this Court does not sit in appeal over the impugned order while exercising jurisdiction under Article 227 of the Constitution of India, the scope whereof is primarily only to ensure that the learned Court below acts within the bounds of its authority. No jurisdictional error in the impugned order has been pointed out by learned counsel for the defendants/appellants/petitioners. The petition accordingly stands dismissed.

(Vikash Jain, J)

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AFR/NAFR	NAFR
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