

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1057 of 2018**

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Smt. Sunila Devi Wife of Manoj Yadav, Resident of Village- Shekhpur
Chaman, Gosai Tola, P.S.- Udakisunganj, District- Madhepura.

... .. Petitioner/s

Versus

1. Jitendra Bhagat and Anr Son of Late Budhdeo Bhagat,
2. Suresh Bhagat, Son of Late Budhdeo Bhagat, Both are resident of Village-
Madhepura Ward No. 8, P.S. Madhepura, District- Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uma Shankar Verma, Sr. Advocate Mr. Dinesh Prasad Verma, Advocate
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 08-09-2022 Heard learned counsel for the petitioner.

Mr. Uma Shankar Verma, learned senior counsel for the petitioner submits that amendment in the plaint has been allowed after commencement of the trial and after examination of six witnesses on behalf of the plaintiff. Accordingly, the submission is that in view of the proviso of Order VI, Rule 17 the Court has no power to allow the amendment after commencement of the trial.

I have heard learned counsel for the petitioner.

The Hon'ble Supreme Court in the case of ***Chander Kanta Bansal v. Rajinder Singh Anand***, reported in ***(2008) 5 SCC 117***, has held that the liberal principles which guide the exercise of discretion in allowing the amendment are that



multiplicity of proceedings should be avoided, that amendments which do not totally alter the character of an action should be granted, while care should be taken to see that injustice and prejudice of an irremediable character are not inflicted upon the opposite party under pretence of amendment. The new proviso lays down that no application for amendment shall be allowed after the commencement of trial, unless the court comes to the conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial. But whether a party has acted with due diligence or not would depend upon the facts and circumstances of each case. This would, to some extent, limit the scope of amendment to pleadings, but would still vest enough powers in courts to deal with the unforeseen situations whenever they arise. Therefore, it is not a complete bar nor shuts out entertaining of any later application. The reason for adding proviso is to curtail delay and expedite hearing of cases.

From perusal of the impugned order, it appears that the plaintiff has forcibly been dispossessed from the suit property during pendency of the suit and the plaintiffs filed the amendment petition in order to bring on record the subsequent development. If amendment is allowed, the same would not



change the nature of the suit nor any prejudice shall be caused to the petitioner/defendant.

In view of the fact that the plaintiff/respondent has filed the amendment to bring on record the subsequent event and the fact that the amendment sought by the plaintiff shall not change the nature of suit and no prejudice shall be caused to the defendant/petitioner, I find no reason to interfere with the impugned order.

Accordingly, this application stands dismissed.

(Anil Kumar Sinha, J)

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