

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.391 of 2018

Suresh Singh Son of late Kishan Das Singh Vishnu Pat Road, Dakhin
Darwaja, Chand Choura, P.S. Civil Lines, Gaya, Gaya.

... .. Petitioner/s

Versus

The State Of Bihar Through The District Collector, Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Amit Kumar Singh

For the Respondent/s : Mr.Raj Kishore Roy-Gp18

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 06-09-2022 Heard learned Counsel for the parties concerned.

By the impugned order, dated 15.04.2017, passed by
learned Sub Judge-II, Gaya, the amendment sought by the
petitioner in the petition filed by him under Section 152 of the
Code of Civil Procedure, has been rejected

Learned Counsel for the petitioner submits that in a
reference case, arising out of the Land Acquisition Act,
judgment and award was passed in favour of the petitioner on
29.01.200 and 11.02.2000, respectively. According to the
petitioner, there was some clerical and arithmetical error in the
judgment and as such, the petitioner filed a petition under
Section 152 of the Code of Civil Procedure for correction of the
same. In the aforesaid petition, the petitioner filed another
petition under Order VI Rule 17 read with Section 141 of the



Code of Civil Procedure for bringing some additional facts by way of amendment. He further submits that the rejection of the amendment of the petition filed under Section 152 of the Code of Civil Procedure by the learned Court below as not maintainable is bad in law inasmuch as the learned Court below failed to appreciate that the procedure prescribed in the Code of Civil Procedure with regard to suit shall follow in miscellaneous proceedings. Accordingly, the rejection of the petition for amendment filed by the petitioner under Order VI Rule 17 read with Section 141 of the Code of Civil Procedure as not maintainable is fit to be set aside.

Learned Counsel for the State does not controvert the submissions advanced on behalf of the petitioner.

Section 141 of the Code of Civil Procedure stipulates that in miscellaneous proceeding, the procedure prescribed in the Code in regard to suit shall be followed as far as it can be made applicable in all proceedings in the court of civil jurisdiction.

The argument of the petitioner is that the correction of clerical and/or arithmetical error in the judgment/award comes under miscellaneous proceeding and accordingly Misc. Case No. 11 of 2000 has been instituted. In this miscellaneous case,



an amendment petition, under Order VI Rule 17 of the Code of Civil Procedure, has been filed.

Taking into consideration the fact that amendment has been sought in the miscellaneous case and as per Section 141 of the Code of Civil Procedure, the procedure prescribed in the of the Code of Civil Procedure shall apply in the miscellaneous case, I come to the conclusion that the finding of the learned Court below that amendment petition, under Order VI Rule 17 of the Code of Civil Procedure, is not applicable is erroneous and accordingly, the impugned order, dated 15.04.2017, is set aside.

This application is allowed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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