

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.224 of 2022**

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Rama Shankar Sharma S/o Shri Ramayan Sharma R/o-At Present residing at Nitikunj, Judges Colony, R.P.S. Road, Saguna, P.S.-Danapur, District-Patna.

... .. Petitioner/s

Versus

Subodh Kumar S/o Late Satish Chandra Vishwakarma @ Satish Prasad R/o-Shanti Niwas, beni Bagicha, Rajendra Path, Patna-800001(Presently residing at Flat No. N 2, Mahas Avenue, Sathiyamurthy Nagar Main Road,, Kangayam Road, Tirupur-641604, Tamil Nadu

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Awadhesh Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

ORAL

Date : 06-07-2022

Heard learned Counsel for the petitioner.

2. The present application has been filed challenging the order, dated 28.01.2022, passed by learned Sub Judge-I, Danapur, Patna, in Misc. Case No. 36 of 2018, under Order VI Rule 17 of the C.P.C.

3. Learned Counsel for the petitioner, assailing the impugned order, submits that the learned Court below has committed illegality in allowing the amendment of the miscellaneous petition filed by the defendant-judgment debtor.

4. The petitioner is the plaintiff-decree holder in a suit filed by him for specific performance and according to learned Counsel, Title Suit No. 159 of 2016 was filed against the



defendant-respondent, which was decreed in favour of the petitioner on 20.12.2016 and pursuant to the decree, the sale deed has been executed and the petitioner has been put in possession of the suit property, including the house. An application, under Order IX Rule 13 of the C.P.C., has been filed by the respondent-defendant for setting aside the ex-parte decree in which the amendment petition has been filed bringing on record certain facts, which, according to learned Counsel for the petitioner, will change the nature of the miscellaneous case.

5. I have gone through the impugned order., It appears that the learned Court below, after taking into consideration the materials on record, has come to the conclusion that the proposed amendment is formal in nature and is necessary for just disposal of the restoration application. The learned Court below has also come to the conclusion that in any case, the petitioner in the miscellaneous case has to produce evidence in support of the miscellaneous application and the other side will have the opportunity to rebut the same.

6. I do not find any illegality in the impugned order by which the amendment in the miscellaneous petition has been allowed by the learned Court below. This application is, accordingly, dismissed.



7. There shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07-07-2022
Transmission Date	N/A

