

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.415 of 2022

Md. Ajimuddin Khan son of Late Wakil Khan, resident of Mohalla-Marwari Bazar, Ward No-22, P.S. Samastipur, District-Samastipur.

... .. Petitioner/s

Versus

1. Ibrar Ahmad son of Late Md. Siddique, Resident of Mohalla-Marwari Bazar, Ward No-17, P.S.-Samastipur, District-Samastipur.
2. Md. Samiman Anwar, son of Late Md. Siddique, Resident of Mohalla-Marwari Bazar, Ward No-17, P.S.-Samastipur, District-Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Birendra Kumar
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 09-11-2022 Heard learned Counsel for the petitioner.

The petitioner is aggrieved by the order, dated 08.02.2022, passed by learned Sub Judge-III, Samastipur, in Title Suit No. 254 of 2018, by which the learned Trial Court has allowed the pre-trial amendment in the plaint after arriving at the conclusion that the same will not change the nature of the suit.

It is admitted position that the trial of the suit has not yet commenced and the issues have not yet been framed. The respondent no. 1-plaintiff has sought certain amendment in the plaint with regard to addition of some reliefs regarding declaration of a sale deed as null and void and for depositing *ad volerum* court fee etc.



Learned Counsel for the petitioner submits that the plaint was filed by the respondent no. 1-plaintiff originally seeking relief of pre-emption and further for a direction to the defendant 1st set to execute sale deed for a consideration in favour of the respondent no. 1-plaintiff. As such, according to the petitioner, the amendment, which has been allowed by the learned Trial Court will change the nature of the suit from the suit for pre-emption to a suit for declaring the sale deed as null and void.

I have heard learned Counsel for the petitioner and have gone through the material on record, including the impugned order.

It transpires that before commencement of the trial, the respondent no. 1-plaintiff has filed a petition for amendment in the plaint along with relief portion of the plaint. From the original plaint, it transpires that the respondent no. 1-plaintiff has prayed for a decree restraining the defendant 1st Set not to do any illegal act over the suit property. Since the issues have not yet been framed and the trial has not commenced, the amendment of the plaint shall not prejudice the petitioner-defendant and the petitioner-defendant shall be at liberty to file additional written statement, if so advised.



Accordingly, I do not find any material irregularity in
the impugned order.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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