

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.708 of 2022

1. Mala Devi Wife of Late Vishwanath Prasad, Resident of Bahari, Begampur, Pipaltal, P.O. - Begampur, P.S. - Bypass, District - Patna.
2. Ajay Kumar, Son of Late Viswanath Prasad, Resident of Bahari, Begampur, Pipaltal, P.O. - Begampur, P.S. - Bypass, District - Patna.
3. Ajit Kumar @ Ajit Raj, Son of Late Viswanath Prasad, Resident of Bahari, Begampur, Pipaltal, P.O. - Begampur, P.S. - Bypass, District - Patna.

... .. Petitioner/s

Versus

1. Smt. Deopati Devi Wife of Late Raghubir Prasad Sinha, Resident of Mohalla Pathar Ki Masjid, Tekari, Road, Muglani Bag, Devi Asthan, P.S. - Sultanganj, District - Patna.
2. Shivanand Verma, Son of Late Dayanand Verma, Resident of Mohalla Pathar Ki Masjid, Tekari, Road, Muglani Bag, Devi Asthan, P.S. - Sultanganj, District - Patna.
3. Vijay Mehta, Son of Late Ganesh Mehta, Resident of Mohalla Pathar Ki Masjid, Tekari, Road, Muglani Bag, Devi Asthan, P.S. - Sultanganj, District - Patna.
4. Binod Prasad, Son of Late Ganesh Mehta, Resident of Mohalla Pathar Ki Masjid, Tekari, Road, Muglani Bag, Devi Asthan, P.S. - Sultanganj, District - Patna.
5. Ashok Mehta, Son of Late Ganesh Mehta, Resident of Mohalla Pathar Ki Masjid, Tekari, Road, Muglani Bag, Devi Asthan, P.S. - Sultanganj, District - Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashank Chandra, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 24-11-2022 Heard Mr. Shashank Chandra, learned counsel for the
petitioners.

The petitioners are aggrieved by the order dated
6.7.2022 by which pre-trial amendment of the plaint has been
allowed by the learned Trial Court.



Learned counsel for the petitioners submits that the petitioners are defendants in the suit and they filed their rejoinder objecting to the amendment proposed by the plaintiffs/respondents by filing two rejoinders, but in the impugned order, only one rejoinder of the petitioners have been considered by the learned Trial Court. He further submits that by way of amendment, the respondents/plaintiffs have deviated from the earlier statement made in the plaint.

I have heard learned counsel for the petitioners and have perused the impugned order. It is an admitted position that the pre-trial amendment of the plaint has been sought by the plaintiffs by which he wants to bring certain facts that during the course of the partition of the family property plaintiff Nos. 3 to 5 of the present suit, their two sisters, have put their signature upon the deed of partition dated 21.2.1991 and accepted that they have no further share in their maternal and paternal property. Therefore, they are not necessary and proper party in the present suit and further that in the family arrangement the sister of the plaintiff No. 2 has left her entire estate to the extent of her maternal as well as paternal property in favour of her brother namely, Shinandan Verma and, therefore, they have not been impleaded as a party in the present



suit. The suit has been filed for declaration of title.

The issues have not been framed in the suit and if the amendment sought by the plaintiff is allowed, no prejudice shall be caused to the defendants inasmuch as the defendants can file additional written statement if they are so advised.

The learned Trial Court has arrived at the finding that the nature of the suit will not change if the amendment is allowed. Accordingly, in order to advance the cause of justice and taking into consideration the fact that pre-trial amendment has been allowed by the learned Trial Court, in my opinion, the impugned order does not require any interference by this Court.

Accordingly, this application stands dismissed.

Liberty is granted to the petitioners/defendants to file additional written statement.

(Anil Kumar Sinha, J)

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