

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.318 of 2018**

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Binay Kumar Srivastava @ Binay Kumar s/o Late Kalika Prasad Resident of
Village Bararam, P.S. Hussainganj, District - Siwan.

... .. Petitioner/s

Versus

1. Ramayan Bhagat, s/o Late Deo Nandan Bhagat
 2. Most. Shushela Kuar w/o Late Singhasan Prasad
 3. Rajesh Kumar Srivastava @ Tribhuan s/o Late Singhasan Prasad
 4. Ravishankar Kumar Srivastava @ Vipul s/o Late Singhasan Prasad
 5. Upender Kumar Srivastava @ Sonu s/o Late Singhasan Prasad
- All are residents of Village Bararam, P.S. Hussainganj, District Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Srivastava
For the Respondent/s : Mr. Naresh Prasad

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER
ORAL

Date : 02-08-2022

Heard learned Counsel for the petitioner and learned
Counsel for the respondents.

2. The petitioner is the plaintiff in Title Suit No. 68 of
2006, filed for cancellation of sale deed and the respondents, who
are defendants in the suit, have filed their written statement.

3. The petitioner is aggrieved by the order, dated
19.12.2017, passed, in Title Suit No. 68 of 2006, by learned Sub
Judge-XI, Siwan, by which the amendments (क) (ख) and (ग) sought



by the respondents-defendants in their written statement has been allowed at the stage of evidence.

4. Learned Counsel for the petitioner submits that by way of filing amendment, the respondents-defendants have sought to add some persons as parties-defendants in the suit and also to make amendment in the written statements. The details of the amendment sought by the respondents-defendants is mentioned in Annexure-1 to this application.

5. Learned Counsel for the petitioner submits that the petitioner, being the plaintiff, is the dominus litus and the respondents-defendants have tried to add some strangers as parties-defendants in the suit in order to delay the disposal of the suit. The respondents-defendants have failed to establish before the learned Trial Court as to how in absence of these persons, the issues involved in the suit cannot be effectually decided. He also submits that other two amendments, at (ख) and (ग) sought by the respondents-defendants were the subject matter of additional written statement filed by the respondents-defendants in the year 2010, which was rejected by learned Trial Court, vide its order, dated 29.08.2017.

6. On the other hand, learned Counsel for the respondents submits that insofar as amendments sought by the



respondents-defendants, at (ख) and (ग), are concerned, these are the relevant facts in order to decide the controversies between the parties and no prejudice shall be caused to the plaintiff if the amendments are allowed.

7. Relying the on the case of **Rajesh Kumar Aggarwal and Others v. K. K. Modi and Others**, reported in (2006) 4 SCC 385, learned Counsel for the respondents submits that the object of Order VI Rule 17 of the C.P.C. is that the courts should try the merits of the case that come before them and should, consequently, allow all amendments that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the other side.

8. With regard to amendment at (क), seeking to add some persons as parties-defendants, learned Counsel for the respondents failed to show even before this Court as to how these persons are proper and/or necessary parties in the suit.

9. Having heard learned Counsel for the parties and taking into consideration the materials on record, I find that the amendments (ख) and (ग) sought by the respondents-defendants is not exactly the same, which was brought by way of additional written statement by the respondents-defendants.



10. Prima facie, this Court is satisfied that amendments)
(ख) and (ग) are necessary to decide the controversies involved in
the suit. However, insofar amendment (क), regarding addition of
parties sought by the respondents, is concerned, I find that
respondents have failed to establish before this Court that they are
necessary and/or proper parties.

11. Accordingly, the impugned order insofar as the
learned Trial Court has allowed amendment (क) sought by the
respondents regarding addition of parties is hereby set aside. The
other part of the impugned order shall remain intact.

12. In the result, this application is allowed to the extent
indicated above.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03-08-2022
Transmission Date	N/A

