

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.19 of 2020

Kapil Muni @ Kapil Dev Prasad Son of Late Ramashray Mahto Resident of Village- Chulhaichak, P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. Krishna Prasad Son of Late Ramjatan Mahto Resident of Village- Chulhaichak, P.S.- Rupaspur, District- Patna.
2. Jit Narayan Prasad Son of Late Ramjatan Mahto Resident of Village- Chulhaichak, P.S.- Rupaspur, District- Patna.
3. Rajendra Prasad Son of Late Nathun Mahto Resident of Village- Shahpur, P.S.- Shahpur, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Sharma
For the Respondent/s	:	Mr. Dinu Kumar Ms.Ritika Rani

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
JUDGMENT AND ORDER

ORAL

Date : 28-06-2022

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

2. The petitioner is aggrieved by the order, dated 03.10.2019, passed, by learned Sub Judge V, Danapur, Patna, in Title Suit No. 309 of 2017, by which amendment petition filed by the respondents-plaintiffs has been allowed.

3. Learned Counsel for the petitioner submits that Title Suit No. 309 of 2017 was filed by the respondents-plaintiffs, in which the petitioner-defendant has filed written statement. The plaintiffs-respondents filed a petition, under Order VI Rule 17 of

the C.P.C. for deletion of paragraphs 3 to 8 of the plaint and substitution of paragraphs 8A to 8F in its place. He next submits that the learned Court below virtually has allowed the plaintiffs-respondents to change the nature of the suit and bring new facts by way of amendment, which is not permissible in law. He also submits that the amendment brought by the respondents-plaintiffs is not bona fide.

4. On the other hand, learned Counsel for the respondents-plaintiffs submits that altogether five defendants are there in the suit, but only one defendant (i.e. the petitioner) has challenged the impugned order and the other defendants chose not to approach this Court challenging the impugned order. He next submits that the issues have not yet been framed in the suit and the learned Court below, taking into consideration the fact that for just and proper adjudication of the suit, the amendment sought by the plaintiffs-respondents is fit to be allowed and, accordingly, allowed the amendment application upon payment of cost of Rs. 3,000/-.

5. Having heard learned Counsel for the parties and after going through the impugned order, I am of the opinion that the learned Court below has rightly come to the conclusion that the amendment is necessary for the purpose of adjudicating the

question in controversy between the parties. The trial has not commenced. The impugned order is not hit by the proviso to Order VI Rule 17 of the C.P.C..

6. I do not find any jurisdictional error or material irregularity in the impugned order.

7. This application is accordingly, dismissed.

8. There shall be no order as to costs.

(Anil Kumar Sinha, J.)

shobha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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