

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.750 of 2018**

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Ajit Kumar Rastogi Son of Late Ram Chandra Rastogi, Resident of Mohalla-
Kali Asthan, Police Station- Chowk, Post Office- Patna City, District- Patna-
800009.

... .. Petitioner/s

Versus

Md. Masood Alam Son of Late Sheikh Manzoor Ahmad, Resident of
Mohalla- Lodi Katra, Police Station- Khaje Kalan, Post Office- Patna City,
District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar

For the Respondent/s : Mr.Manoj Kumar Singh

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**CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER**

8 09-02-2023 Heard learned counsel for the parties.

This Civil Misc. application has been filed for quashing the order dated 12.03.2018 passed by learned Munsif, Patna City in Title Suit No. 25 of 1996 by which the learned trial Court rejected the amendment petition dated 11.01.2018 filed by the petitioner for amendment in the written statement.

It appears from the impugned order that the proposed amendment petition had been filed at the stage of final argument when the defendants have stated arguments. Learned trial Court observed that defendant's have not shown due diligence and the proposed amendment to be incorporated is almost the settled principles of law which are not required to be incorporated by way of amendment.



Learned trial Court held that proposed amendment is neither imperative for proper and effective adjudication of the case nor refusing amendment would in fact lead to injustice or lead to multiple litigation. The proposed amendment is not at all required for the ultimate decision of the suit. The trial Court observed that amendment petition of the petitioner is malafide one and filed only with a view to linger the disposal of the case which is of the year 1996.

Learned counsel for the petitioner/defendant No.1 submits that this application may be disposed of with liberty to raise the legal issue before the trial Court at the time of final argument for which learned counsel for the respondent submits that he has no objection as the same is even otherwise available to the petitioner to argue on the relevant legal provisions.

In view of the submission of learned counsel for the parties, this case is disposed of with the liberty to the petitioner, as prayed for.

Both the parties shall cooperate the learned trial Court for expeditious disposal of the aforesaid suit.

(Sunil Dutta Mishra, J)

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