

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8220 of 2013

In
CIVIL REVISION No.469 of 2009

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1. Dhirendra Singh @ Dhirendra Kumar Singh Son of late Ram Parvesh Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
 2. Sheodhayan Singh, Son of late Ram Parvesh Singh Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. Deonandan Yadav @ Deonandan Singh Son of late Dukhharan Yadav, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
2. Kalawati Devi, Wife of Bamdeo Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
3. Kamala Devi, Wife of Mandeo Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
4. Asha Kali Devi, Wife of Deonandan Prajapati Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
5. Deowanti Devi, Wife of Naujadik Prajapati, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
6. Sanjay Kumar, Son of Late Janardan Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
7. Dharmvir Kumar, Son of late Janardan Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
8. Gudiya Kumari, D/o late Janardan Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
9. Sinki Kumari, D/o of late Janardan Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
10. Asha Kuar, Widow of late Janardan Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
11. Nageshwar Singh Son of late Bishundeo Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
12. Birendra Singh, Son of late Ramashish Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
13. Harendra Singh, Son of late Ramashish Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
14. Anugrah Singh, Son of late Ramashish Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
15. Anil Singh, Son of late Ramashish Singh, Resident of Village- Belarhi, P.S. Daudnagar, District- Aurangabad.
16. Nagendra Singh @ Rajendra Singh, Sonb of late Bidhichand Singh, Resident of Village- Tetaria, P.S. Baroon, District- Aurangabad.



17. Ramchandra Singh, Son of late Bidhichand Singh, Resident of Village- Tetaria, P.S. Baroon, District- Aurangabad.
18. Hirdaya Nandan Singh, Son of late Bidhichand Singh, Resident of Village- Tetaria, P.S. Baroon, District- Aurangabad.
19. Madheshwar Singh, Son of late Lallu Singh, Resident of Village- Tetaria, P.S. Baroon, P.O. Kanchanpur- Kashipur, District- Aurangabad.
19. Sidheshwar Singh, Son of late Lallu Singh, Resident of Village- Tetaria, P.S. Baroon, P.O. Kanchanpur- Kashipur, District- Aurangabad.
19. Rameshwar Singh, Son of late Lallu Singh, Resident of Village- Tetaria, P.S. Baroon, P.O. Kanchanpur- Kashipur, District- Aurangabad.
19. Umesh Singh, Son of late Lallu Singh, Resident of Village- Tetaria, P.S. Baroon, P.O. Kanchanpur- Kashipur, District- Aurangabad.
19. Udai Singh, Son of late Dudeswar Singh, Resident of Village- Tetaria, P.S. Baroon, P.O. Kanchanpur- Kashipur, District- Aurangabad.
19. Piyariya Devi, D/o late Lallu Singh, Resident of Village- Tetaria, P.S. Baroon, P.O. Kanchanpur- Kashipur, District- Aurangabad.
19. Dulariya Devi, D/o late Lallu Singh, Resident of Village- Tetaria, P.S. Baroon, P.O. Kanchanpur- Kashipur, District- Aurangabad.
19. Radhika Kuar, D/o of late Lallu Singh, Resident of Village- Tetaria, P.S. Baroon, P.O. Kanchanpur- Kashipur, District- Aurangabad.
20. Most. Surya Kanti Devi Widow of late Haridash Singh, Resident of Village- Belarhi. P.S. Daudnagar, District- Aurangabad.
21. Smt. Mina Devi, Daughter of late Haridash Singh, Resident of Village- Belarhi. P.S. Daudnagar, District- Aurangabad.
22. Santosh Kumar Singh, Son of late Haridash Singh, Resident of Village- Belarhi. P.S. Daudnagar, District- Aurangabad.
23. Rajesh Kumar Singh, Son of late Haridash Singh, Resident of Village- Belarhi. P.S. Daudnagar, District- Aurangabad.
24. Bhanu Kumar Singh, Son of late Haridash Singh, Resident of Village- Belarhi. P.S. Daudnagar, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shantanu Kumar, Advocate
For the Respondent/s : Mr.Mrigendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

12 14-02-2023 The present writ petition has been filed challenging
the order dated 20.12.2008 passed in Title Suit No. 51 of 1999/
206 of 2008 by the learned Court of Munsif, Daudnagar,



whereby and whereunder the petition filed by the petitioner dated 20.10.2008, seeking certain amendments in the plaint has been rejected only on the ground that the trial is in an advanced stage and the amendment petition has been filed belatedly just with a view to delay the suit proceedings.

The learned counsel for the petitioners has referred to the prayer made in the plaint of the aforesaid Title Suit No. 51 of 1999/ 206 of 2008, pending before the learned Court of Munsif, Daudnagar, which is reproduced hereinbelow :-

"i) The defendants of the suit be permanently restrained from going to the suit land and they also be directed by the court to maintain the status quo of the suit land.

ii) Cost of the suit be awarded.

iii) Any other relief or reliefs be given to plaintiffs the court thinks just and proper.

Description of the suit land

Proved in the impugned sale deed dated 10.03.99 executed by defendant no.7 to 8 in favour of defendant 1 to 6.

Khata no.	Plot no.	A. Dec.	Boundary
287	155	x.20 1/2	N.-Nahar

S.-Sidheshwar Singh

E.-Plaintiffs

W.-Sidheshwar Singh



The learned counsel for the petitioners has also referred to the prayer made in the amendment petition, which is reproduced hereinbelow:-

"1. That same sentences has been left out in relief no.1 in the end "And plaintiffs title be declared" be added.

2. That A first para 12(A) be added and that Deolagani @ Karmi Devi had filed P.S. 34/1953 in the court of sub Judge Gaya against Bishundeo Singh and others which was transferred in the court of Additional Sub Judge I, Gaya with respect to properties which was dismissed and the said Karmi against the judgment and decree of A.D.J.I, before Honourable High Court and in said appeal compromise decree has been passed and in compromise decree the land of Khata 287 plot 155 were allotted in the share of Karmi @ Deolagani."

It is not disputed by the learned counsel for the parties that only after the title of the plaintiffs over the suit land is determined, the issue regarding grant of permanent injunction restraining the defendants from going to the suit land, can be determined, hence, apparently, the amendment prayed for by the plaintiffs will not either alter materially or substitute the cause of action or the nature of relief sought for, thus, this Court is of



the view that the order impugned dated 20.12.2008 has been passed in a mechanical manner and has not considered the aforesaid aspect of the matter, hence, is held to be unsustainable in the eyes of law, thus, is set aside with a direction to the learned court below to carry out the amendments prayed for by the petitioner.

At this juncture, the learned counsel for the defendants has prayed that the defendant be granted liberty to file additional written statement and lead proper evidence thereafter, as also a time frame be prescribed for conclusion of the trial in question, to which the learned counsel for the petitioners has got no objection.

Accordingly, the defendants are granted liberty to file additional written statement within a period of 30 days from today and, then, the learned Court of Munsif, Daudnagar shall hold the trial expeditiously and ensure that the suit proceedings are concluded within a period of 12 months, thereafter.

The petition stands allowed on the aforesaid terms.

(Mohit Kumar Shah, J)

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