

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.801 of 2018

1. Raj Kumar
2. Manoj Kumar
3. Santosh Kumar @ Pappu
4. Sanjay Kumar All Sons of Late Yogendra Prasad All residents of mohalla -
Bakarganj, Bari Path, P.O. - Bankipur, P.S. - Kadamkuan, District - Patna at
present resident of Rajapur Pul, P.O. - G.P.O., P.S. - Sri Krishnapuri, District
- Patna.

... .. Petitioner/s

Versus

1. Prem Prakash son of Late Inder Prasad
2. Amit Kumar
3. Abhishek Kumar Both sons of Sri Prem Prakash All residents of mohalla -
Rajapur Pul, P.O. - G.P.O., P.S. Sir Krishnapuri, District - Patna.
4. Baby Devi Wife of Bablu Kumar resident of Punpun Pakri, P.O. and P.S.
Punpun, District - Patna.
5. Kusum Devi Wife of Shambhu Prasad resident of Chapra, Sahebganj,
Chapra.
6. Priti Kumari Wife of Ranjit Kumar resident of Bakerganj Bari Path, P.O.
Bankipur, P.S. - Kadamkuan, District - Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Abinash Kumar

For the Respondent/s : Mr.Radha Mohan Pandey

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

22 28-08-2023

Heard learned counsel for the parties.

2. This application has been filed for setting aside the
part of the order dated 06.02.2018 passed by learned Sub- Judge
IInd, Patna in Title Suit No. 25 of 2010, whereby petitioners



amendment petition dated 18.09.2017 has been rejected erroneously.

3. By the impugned order dated 06.02.2018 the amendment application dated 18.09.2017 filed by the petitioners has been rejected.

4. Learned counsel for the petitioners submit that during pendency of the title suit certain constructions has been made by the defendants and this fact is being brought on record by the plaintiff in the title suit and therefore the same should have been allowed as in the interest of justice.

5. Learned counsel for the defendants who are appearing before this Court submitted that the present amendment is *mala fide* filed after delay as earlier two amendments have been allowed in favour of the plaintiff. In ***Life Insurance Corporation Of India v. Sanjeev Builders Private Limited 2022 SC 4277*** while deciding the issue of amendment Paragraph 70 reads as follow:

70. Our final conclusions may be summed up thus:

(ii) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word “shall”, in the latter part of Order



VI Rule 17 of the CPC.

6. In my considered opinion, the amendment ought to have been allowed as it doesn't change the nature of the suit, it is required for effective and proper adjudication of the controversy between the parties, the plaintiff by the present amendment is not seeking to withdraw any clear admission or it is not time barred claim.

7. In view of the law laid down by Hon'ble Supreme Court in the case of ***Lic Insurance Corporation Of India v. Sanjeev Builders Private Limited (supra)***, this application is allowed.

8. The Sub Judge-II, Patna is directed to conclude the suit expeditiously preferably within a year from the date of receipt of copy of this order.

9. The contention of some of the defendants appearing before this Court that they have no knowledge and for the first time appeared they have appeared in this Court. Now they have appeared before this Court and they have knowledge of the suit and they are given liberty to appear before the trial court and take necessary steps in accordance with law to contest the suit.

10. With the aforesaid observation and direction, this application is allowed.



11. The defendants have a right to file an additional
written statement in view of the amendment.

(Sandeep Kumar, J)

Ranjeet/-

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