

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.158 of 2023**

Uma Shankar Singh, Advocate son of Late Kedar Nath Yadav @ Kedar Nath Singh Resident of Village and P.O. Dalsagar, P.S. Buxar Indl., District- Buxar, Bihar- 802116 and at present Flat No. 2/C, Shailkunj Apartment, Mangalam, Baily Road, Saguna, Danapur, Patna- 801503.

... .. Petitioner

Versus

1. Gouri Shankar Prasad son of Late Ram Parikha Yadav Resident of Village and P.O. Dalsagar, P.S. Buxar Industrial, District- Buxar, Bihar- 801116.
2. Sunil Kumar Singh son of Late Ram Parikha Yadav Resident of Village and P.O. Dalsagar, P.S. Buxar Industrial, District- Buxar, Bihar- 801116.
3. The State of Bihar through the Collector, Buxar.
4. Dy. Collector Land Reforms, Buxar.
5. The Circle Officer, Buxar.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Nagendra Rai, Advocate Mr. Koshalendra Rai, Advocate
For the Respondent/s	:	Mr. Sanjay Kumar Verma, Advocate Mr. Raj Kishore Roy, GP-18

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 30-10-2024

Heard learned counsels for the respective parties and I intend to dispose of the present petition at the stage of admission itself.

02. The present civil miscellaneous petition has been filed under Article 227 of the Constitution of India by the petitioner for quashing the order dated 04.11.2022 passed by the learned Additional Munsif-II, Buxar in Title Suit No. 85 of 2011, whereby and whereunder the learned Additional Munsif-II, Buxar, allowed the amendment application of the



plaintiffs/respondents 1st set filed under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (for short 'the Code').

03. Learned counsel for the petitioner submits that the amendment sought by the plaintiffs/respondents 1st set are mala fide and the amendment application has been filed not to bring any necessary fact on the record but it is by way of luxurious indulgence of the plaintiffs/respondents 1st set. Moreover, the amendment has been sought after framing of the issues though evidence has not started in the present case. Learned counsel further submits that the respondents 1st set has filed the title suit to grab the property under litigation and their claim about possession for 70-75 years was not based on any document whereas the revisional survey *khatiyān* of the year 1969 reveals the possession of Kedar Nath Yadav from 1364 (*fasli*) year and on that basis the land in dispute were settled in his favour in Case No. 21/95-96 by the competent authority. To negate this claim, the plaintiffs/respondent 1st set wants to change their claim about possession from 70-75 years to 60-70 years but the said statement is contradictory to statements made before different courts. Learned counsel further submits that four months prior to making this amendment, another application under Order 6 Rule 17 of the Code for making



certain amendment in the plaint was filed, which was allowed and the petitioner did not object to the said amendment but the plaintiffs want to linger on the matter and have filed another application for bringing about certain amendments just after four months, which is not permissible. Learned counsel further submits that the title suit is of the year 2011 and due to the attitude of the plaintiffs, the same is still at the stage of evidence. Thus, the learned counsel submits that amendment is malafide and should not be allowed.

04. Learned counsel appearing on behalf of respondents 1st set submits that there is no illegality in the amendment sought by the plaintiffs/respondents 1st set. The evidence has not started, which shows the trial has not commenced. The amendment sought by the plaintiff is completely formal in nature as a general statement has been sought to be replaced by another general statement. Moreover, the claim does not cause prejudice to other-side in any manner. Thus, the learned counsel submits that there is no infirmity in the impugned order and the same does not need interference of this Court.

05. I have given my thoughtful consideration to the rival submission of the parties in the light of facts and



circumstances of the case.

06. Bringing two applications for amendment in succession should be deprecated. It shows the casual and careless approach of the plaintiffs to their case before the learned trial court. However, the amendments appears to be just a change in the period of possession and since the evidence has not started in the matter, I am of the view that the amendment should have been allowed subject to some cost. Further, if the amendment has been allowed, the petitioner should have been given an opportunity to rebut/controvert the same by filing additional/amended written statement. Therefore, the impugned order dated 04.11.2022 passed by the learned Additional Munsif-II, Buxar in Title Suit No. 85 of 2011 is modified and amendment is allowed subject to payment of cost of Rs. 2,000/- to the petitioner on the first date before the learned trial court after receipt/production of a copy of this order. Further, the petitioner will be given ample opportunity to rebut/controvert the amendment by filing additional written statement.

07. Since it is an old matter of the year 2011, the learned trial is directed to expedite the proceeding and try to dispose of the suit at the earliest and preferably within a year from the date of receipt/production of a copy of this order.



08. With the aforesaid observations, the present
petition stands disposed of.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.11.2024
Transmission Date	NA

