

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4386 of 2016

1. Hasmuddin Shah and Ors Son of Late Afzal Shah
 2. Hasnain Shah, Son of Late Afzal Shah,
 3. Bibi Samima, Wife of Amirullah All are resident of village- Kael Tola,
Malik Tola, Pragana Bara, P.S.- Barharia, P.O.- Kaligarh, District- Siwan
- Petitioner/s

Versus

1. Akbar Shah Son of Late Rahwat Sah
2. Lalmuni Begum, Wife of Moquim Shah
3. Bibi Salama, Wife of Late Yainuddin
4. Mustaquim
5. Zaiyun
6. Tunni
7. Rehana
8. Sahena Respondents No. 4 to 8 are Sons and Daughter of Late Yainuddin
9. Bibi Sakina, Wife of Yainuddin Shah
10. Vizae Shah
11. Mannu Shah
12. Prem Khatoon
13. Bebi
14. Sangam Respondents No. 10 to 14 are son and Daughter of Mainuddin Shah
15. Mainuddin Shah
16. Saffiuddin Shah
17. Nizamuddin Shah Respondents No. 15 to 17 are Son of Late Mokim Shah
18. Bibi Hasibun, Daughter of Mokim Shah null
19. Israil Shah, Son of Late Hakim Shah
20. Bibi Yainul, Daughter of Late Khalil Shah
21. Noor Alam
22. Manzar Alam Respondent No. 21 & 22 are son of Late Khalil Shah
23. Khairu Nisa, Wife of Quasim Shah
24. Bibi Ashama, wife of Salauddin Shah
25. Harendra Singh
26. Narendra Singh
27. Manoj Singh
28. Babita Devi
29. Name not Known Respondent No. 25 to 29 are Son & Daughter of Late
Santosh Singh
30. Bibi Bahiddin, Wife of Khudaddin Shah
31. Asgar Ali
32. Alam Ali



33. Akhtar Ali
34. Shamim Ali
35. Hamaza Khatoon
36. Zamila Khatoon Respondent No. 32 to 36 are Son & Daughter of Late Zahiruddin Shah
37. Nasaruddin Shah, Son of Late Khudaddin Shah
38. Zamila Khatoon, Wife of Gulasan
39. Mahrnun Misa, Wife of Tasarim
40. Nasaruddin Shah, wife of Ali Raza Shah
41. Esrail Shah, Son of Nabab Shah
42. Hazir Shah
43. Tazir Shah
44. Lamuni Misa
45. Salmuni Misa
46. Nazmuni Nisa Respondents No. 42 to 46 are Son and Daughter of Late Baharan Shah All of the above respondents are resident of village- Kailtola Malik Tola, P.s.- Barharia, P.O.- Kaligarh, District- Siwan

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar
Mr. Ayush Kumar
For the Respondent/s : Mr. Waliur Rahman

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 29-03-2024 Heard Mr. Ranjeet Kumar, learned counsel for the petitioners and Mr. Wali-ur Rahman, learned counsel appearing for the Respondents.

2. In a Title Suit instituted in the year 1986, the evidence of the plaintiffs was closed. The last witness for the defendants was being examined. At that stage an amendment application was filed by the defendants. From the reading of the amendment petition, it appears that the defendants want to bring a number of amendments including the change in the genealogy.



The amendment petition has been allowed by the Court below.

3. Learned counsel for the petitioners has submitted that new facts are sought to be brought on record and in the last stage of the suit which will prejudice the petitioners and the court below has held that the facts which are being brought by filing an amendment petition was already in the knowledge of the defendants at the time of filing of the written statement, but still the amendment application has been allowed.

4. Mr. Wali-ur Rahman, learned counsel appearing on behalf of the Respondents has submitted that the amendment can be allowed at any stage of a suit or at the stage of second appeal and merely because there was delay in filing the amendment petition, the amendment petition should not be dismissed.

5. He has also submitted that he will not lead any evidence and trial will not be a *de novo* trial and he is ready to forgo the amendment so far as it relates to the genealogical table.

6. I have considered the submissions of the parties.

7. The amendment sought for/proposed by the defendants has been brought at the fag end of the case when the last witness of the defendants was being examined. It is not in



dispute that the facts were in the knowledge of the defendants at the time of filing of the written statement. It is also not in dispute that the Title Suit is of the year 1986 and after thirty years, the amendment petition was filed which has been allowed.

8. In my opinion, such amendments which are being filed after thirty years of filing of the suit and at the fag end of the suit when the last witness was being examined on behalf of the defendants, he is not *bonafide* but *malafide* and these kind of amendments are only filed with an intention to delay the disposal of the suit.

9. In view of the discussions above, this application is allowed.

The order dated 27.01.2016 passed in Title Suit No. 160 of 1986 is quashed.

10. The Sub-Judge concerned hearing the Title Suit No. 160 of 1986 is directed to conclude the hearing of the Suit within three months from the date of receipt/communication of a copy of this order. It will proceed *ex parte* against the non-cooperating party.

(Sandeep Kumar, J)

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