

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1729 of 2018**

1. Manohar Henry, Son of Late Danial Henry
2. Murial Henry, Wife of Michael Henry
3. Sushil Henry, Son of Michael Henry
4. Niranjana Henry, Son of Late Danial Henry
5. Suvina Henry, Daughter of Late Danial Henry, All resident of Village-
Mauza Thalha Garhia Tola, Lal Bihari Kunj, P.S.- Triveniganj, District-
Supaul.

... .. Petitioner/s

Versus

Jai Shankar Kumar, Son of Late Suryanarayan Yadav, resident of Village-
Kumiahi, Panchayat- Simari, P.S.- Triveniganj, District- Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.N.P. Singh, Sr. Advocate Mr. Navesha Nandan, Advocate Ms. Prakriti Sharma, Advocate Mr. Gaurav Kumar, Advocate
For the Respondent/s	:	Mr. Siddhartha Prasad, Advocate Mr. Om Prakash Kumar, Advocate

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

Date : 08-01-2024

Heard learned senior counsel for the petitioners as well as
learned counsel for the respondent.

2. The instant petition has been filed for setting aside the
order dated 16.04.2016 passed by the learned Subordinate
Judge-VI, Supaul in Title Suit No. 26 of 1998 rejecting the
amendment petition dated 17.03.2005 of the
plaintiffs/petitioners.

3. Learned senior counsel appearing on behalf of the



petitioners submits that the plaintiffs/petitioners have filed Title Suit No. 26 of 1998 for a declaration that the lands described in schedule-2 of the plaint are in possession of the plaintiffs. Bringing the amendment petition, the plaintiffs have sought a number of amendments including declaration of Sale Deed Nos. 3315 and 3316 dated 21.03.1983 to be void, illegal and not binding on the plaintiffs. The learned Subordinate Judge though gave a finding regarding the declaration sought for the sale deeds to be time barred, the learned Subordinate Court did not express any opinion on other amendments sought on behalf of the plaintiffs. Learned senior counsel further submits that plaintiffs do not want to press that portion of the amendment by which a declaration has been sought with regard to status of Sale Deed Nos. 3315 and 3316 dated 21.03.1983. However, so far as other amendments are concerned, the learned Subordinate Court ought to have considered these amendments. Since these amendments are formal in nature, the same may be allowed.

4. Learned counsel appearing on behalf of the respondent vehemently countered the submission made on behalf of the petitioners. Learned counsel further submits that the petitioners have brought the amendment petition after much delay. The suit has been filed in the year 1998 and the amendment petition was



filed in the year 2005 but the petitioners were having full knowledge about the aforesaid sale deeds and other facts on which amendment has been sought. However, learned counsel submits that since the matter is quite old, it needs to be adjudicated at the earliest. The learned counsel further submitted that if no relief is being sought regarding Sale Deed Nos. 3315 and 3316 dated 21.02.1983, other amendments may be considered and a reasoned order could be passed by the learned trial court after consideration within a stipulated period and the suit before it may be expeditiously disposed of.

5. Having regard to the aforesaid facts and circumstances and submissions made on behalf of both the parties, I think it is fair enough on part of the parties in submitting that the suit, which is quite old, is disposed of at the earliest. At the same time, since there is no finding with regard to other amendments apart from the amendment with regard to Sale Deed Nos.3315 and 3316 dated 21.02.1983, the learned trial court was duty bound to record its finding as to whether the amendment should be allowed or rejected with its reasons. Hence, the order dated 16.04.2016 passed by the learned Sub Judge-VI, Supaul in Title Suit No. 26 of 1998 is set aside and the learned trial court is directed to pass a reasoned order on the amendment petition



barring that portion in which amendment has been sought with regard to Sale Deed Nos. 3315 and 3316 dated 21.03.1983. Since the relief with regard to it has been given up by the petitioners.

6. Accordingly, the instant petition is allowed in part.

7. It is made clear that this Court has not made any comment on merits of the case. The learned trial court is directed to dispose of the amendment petition within two months from the date of receipt/production of a copy of this order without getting prejudiced by anything said here.

(Arun Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.01.2024
Transmission Date	NA

