

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1932 of 2018**

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Jitendra Singh @ Jitendra Kumar Singh S/o Ramashish Singh R/o village
Dillian , P.S Sasaram , Dist Rohtas

... .. Petitioner/s

Versus

2. Rekha Kumari D/o Late Bashistha Singh Both R/o Village Dillian , P.S.
Sasaram Dist Rohtas
3. Ramashish Singh S/o Late Jagarnath Singh
4. Suresh Singh S/o Jagarnath Singh Both R/o Village Dillian , P.S. Sasaram
Dist Rohtas

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rewti Kant Raman, Advocate Mrs. Sangita Kumar, Advocate
For the Respondent/s	:	Mr. Ramchandra Singh, Advocate Mr. Ajay Pathak, Adv.

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

Date : 29-10-2024

Heard learned counsel for both the parties.

2. The petitioner is aggrieved by the order dated 14.08.2018 passed by the learned Sub Judge VIIth, Sasaram in Title Suit No. 688 of 2007 whereby and whereunder the learned Sub Judge allowed the amendment petition filed by the plaintiff dated 20.12.2014 for making certain amendments in the plaint.

3. Learned counsel for the petitioner submits that the impugned order is cryptic and non-speaking and has been passed without discussing any reason by merely stating that the amendments are ordinary in nature and would assist in the disposal of the suit.

4. Learned counsel further submits that the amendment sought by the plaintiff was with regard to change in the share of the plaintiff in the joint family property from 1/4th share to 1/3rd share but the change in the share was sought on account of death of original defendant no. 1 Jagarnath Singh. The said Jagarnath Singh recorded his statement after a compromise was effected between the parties regarding partition of share and in the statement, the deceased Jagarnath Singh stated that he and the petitioner came into joint possession of their share of property and after his death petitioner would be entitled to his property. But this fact was not taken into consideration by the learned trial court which passed the order which is not sustainable.

5. Learned counsel appearing on behalf of the respondent no. 2 vehemently submits that there is no infirmity in the impugned order and the said order is correct. Learned counsel submits that if one of the co-sharer has died, naturally his share would devolve upon other co-sharers who are his sons. The petitioner is son of one of the sons of late Jagarnath Singh and he wants to grab the shares of other co-sharers. Learned counsel further submits that the compromise is under challenge by the parties and for this reason the learned trial court rightly proceeded in the matter and allowed the amendment petition.

6. Perused the record.

7. From perusal of the impugned order it is apparent that it is a cryptic and non-speaking order. No reasons have been given for passing the order allowing the amendment petition. The order does not discuss at all the nature of amendments, whether the amendments are necessary for adjudication of dispute between the parties and the reasons for allowing the amendment except for blandly stating that the amendments are ordinary in nature and would help the court. There is no discussion of respective submission of the parties. Such type of cryptic and non-speaking orders are improper and unwarranted and hence, could not be sustained.

8. Hence, the order dated 14.08.2018 is set aside and the matter is remitted back to the learned trial court for passing a reasoned order after duly considering the contention of the parties.

9. With the aforesaid direction, the present petition stands allowed at the stage of admission itself.

(Arun Kumar Jha, J)

anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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