

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.905 of 2017

1. Kamleshwar Thakur, Son of Late Lallan Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
2. Mangaleshwar Thakur, Son of Late Lallan Thakur, Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.

... .. Petitioner/s

Versus

1. Angad Thakur Son of Late Shambhu Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
2. Binod Kumar, Son of Late Shambhu Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
3. Kanhaiya Thakur, Son of Late Kumari Thakur @ Sidhnath Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
4. Takeshwar Thakur, Son of Late Kumari Thakur @ Sidhnath Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
- 5.1. Vidyawati Devi W/o Late Dayanand Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
- 5.2. Manas Thakur S/o Late Dayanand Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
- 5.3. Mukul Thakur S/o Late Dayanand Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
- 5.4. Ramashankar Thakur S/o Late Rajbansh Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
- 5.5. Lal Thakur S/o late Rajbansh Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
- 5.6. Shridhar Thakur @ Hiran Thakur S/o Late Rajbansh Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
- 5.7. Bachul Thakur S/o Late Rajbansh Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
- 5.8. Shivshankar Thakur S/o Late Rajbansh Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
6. Umesh Thakur, Son of Maksdan Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
7. Ganesh Thakur, Son of Maksdan Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
8. Most. Dhanrajo Devi, Widow of Late Mahesh Thakur, Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
9. Rahul Thakur, Son of Late Mahesh Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.



10. Anish Thakur, Son of Late Mahesh Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
11. Manish Thakur, Son of Late Mahesh Thakur Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
12. Name not known, Widow of Maksudan Thakur, Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
13. Shiv Shankar Rai, Son of Late Vishundayal Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
14. Sheo Muni Rai, Son of Late Vishundayal Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
15. Ashutosh Rai S/o Late Chandrama Rai R/o- Vill. and P.O.- Rajapur, P.S.- 1. Simri, Dist.- Buxar.
15. Dabloo Rai S/o Late Chandrama Rai R/o- Vill. and P.O.- Rajapur, P.S.- 2. Simri, Dist.- Buxar.
16. Anilji Rai, Son of Late Surajdeo Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
17. Bablu Rai, Son of Late Surajdeo Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
18. Abhimanyu Rai, Son of Late Surajdeo Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
19. Kiran Devi, Late Ramnath Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
20. Sabitri Devi, Late Ramnath Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
21. Usha Devi, Late Ramnath Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
22. Om Prakash Rai, Son of Late Sidhnath Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
23. Vijay Prakash Rai, Son of Late Sidhnath Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
24. Rajnath Rai, S/o Late Muni Nath Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
25. Jitendra Rai, Son of Late Tej Narain Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
26. Amesh Rai, Son of Late Tej Narain Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
27. Akhilesh Rai, Son of Late Tej Narain Rai, Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
28. Suresh Rai S/o Late Aap Narain Rai R/o- Vill. and P.O.- Rajapur, P.S.- Simri, 1. Dist.- Buxar.
28. Kamlesh Rai S/o Late Aap Narain Rai R/o- Vill. and P.O.- Rajapur, P.S.- 2. Simri, Dist.- Buxar.
29. Raghubans Rai, Son of Late Srikant Rai Resident of Village and P.O.-



Rajapur, P.S.- Simri, District- Buxar.

30. Upendra Rai, Son of Late Srikant Rai, Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
31. Ramakant Rai, S/o Gangadhari Rai, Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
32. Nagendra Rai S/o Late Deoraj Rai R/o- Vill. and P.O.- Rajapur, P.S.- Simri, 1. Dist.- Buxar.
32. Surendra Rai S/o late Deoraj Rai R/o- Vill. and P.O.- Rajapur, P.S.- Simri, 2. Dist.- Buxar.
33. Gupteshwar Rai, S/o Shivjatan Rai, Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
34. Umesh Rai, Son of Late Namu Narain Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
35. Dinesh Rai, Son of Late Namu Narain Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
36. Sanjay Rai, Son of Late Namu Narain Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
37. Satyendra Rai, Son of Late Namu Narain Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
38. Rajdeo Rai, Son of Late Namu Narain Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
39. Jitendra Rai, Son of Late Namu Narain Rai Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
40. Laxman Rai, S/o Ramsinghasan Rai, Resident of Village and P.O.- Rajapur, P.S.- Simri, District- Buxar.
41. Baban Yadav, S/o Late Hardeo Yadav, Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
42. Chhatoo Yadav, S/o Late Shivsagar Yadav, Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
43. Indradeo Yadav, Husband of Late Dulhin Tetari Devi, Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
44. Dharmendra Yadav, Son of Late Shyam Bihari Yadav Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
45. Munna Yadav, Son of Late Shyam Bihari Yadav Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
46. Shravan Yadav, Son of Late Shyam Bihari Yadav Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
47. Suraj Yadav, Son of Late Shyam Bihari Yadav Resident of Village and P.O.- Gangauli, P.S.- Simri, District- Buxar.
48. Most. Lalita Devi W/o Late Surendra Thakur R/o- Vill. and P.O.- Gangauli, 1. P.S.- Simri, Dist.- Buxar.
48. Chhotu Thakur S/o- Late Surendra Thakur R/o- Vill. and P.O.- Gangauli, 2. P.S.- Simri, Dist.- Buxar.



48. Jhunna Thakur S/o Late Surendra Thakur R/o- Vill. and P.O.- Gangauli, P.S.-
3. Simri, Dist.- Buxar.
49. Birendra Thakur, Son of Late Rewati Raman Thakur Resident of Village and
P.O.- Gangauli, P.S.- Simri, District- Buxar.
50. Mira Devi W/o Late Triloki Thakur R/o- Vill. and P.O.- Gangauli, P.S.-
1. Simri, Dist.- Buxar.
50. Rajeev Thakur S/o Late Triloki Thakur R/o- Vill. and P.O.- Gangauli, P.S.-
2. Simri, Dist.- Buxar.
50. Ranjan Thakur S/o Late Triloki Thakur R/o- Vill. and P.O.- Gangauli, P.S.-
3. Simri, Dist.- Buxar.
51. Shubh Narayan Thakur, Son of Late Awadhesh Thakur Resident of Village
and P.O.- Gangauli, P.S.- Simri, District- Buxar.
52. Ram Pratap Thakur, Son of Late Awadhesh Thakur Resident of Village and
P.O.- Gangauli, P.S.- Simri, District- Buxar.
53. Dinesh Thakur, Son of Late Harihar Thakur Resident of Village and P.O.-
Gangauli, P.S.- Simri, District- Buxar.
54. Ganesh Thakur, Son of Late Harihar Thakur Resident of Village and P.O.-
Gangauli, P.S.- Simri, District- Buxar.
55. Gajendra Thakur S/o Late Chhiteshwar Thakur R/o- Vill. and P.O.-
1. Gangauli, P.S.- Simri, Dist.- Buxar.
55. Mrigendra Thakur S/o Late Chhiteshwar Thakur R/o- Vill. and P.O.-
2. Gangauli, P.S.- Simri, Dist.- Buxar.
55. Uma Devi D/o Late Chhiteshwar Thakur R/o- Vill. and P.O.- Gangauli, P.S.-
3. Simri, Dist.- Buxar.
55. Nilu Devi D/o Late Chhiteshwar Thakur R/o- Vill. and P.O.- Gangauli, P.S.-
4. Simri, Dist.- Buxar.
56. Shiva Sahay Thakur, S/o Late Gupteshwar Thakur Resident of Village and
P.O.- Gangauli, P.S.- Simri, District- Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Binod Kumar Singh, Advocate
For Respondent 5	:	Mr. Gopal Govind Mishra, Advocate
For Respondent 7	:	Dr. Kamal Deo Sharma, Advocate
For the Respondents 1 to 4 & 6	:	Mr. Rajiv Ranjan Kr. Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

CAV JUDGMENT

Date : 28-02-2025

The instant petition has been filed for quashing the
order dated 09.03.2017 passed in Title Suit No. 123/2004 by the



learned Sub Judge-II, Dumraon, Buxar whereby and whereunder the application dated 05.08.2015 filed on behalf of the plaintiffs/petitioners under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure (hereinafter referred to as 'the Code') seeking amendment in their plaint, has been rejected.

2. From the records, it transpires that the petitioners along with respondents 5th set instituted Title Suit No. 123/2004 in the court of learned Sub Judge-1, Buxar against the defendants/other respondents praying for grant of decree for partition in their favour and after partition by metes and bounds, carving out a separate *Takhta* of 3/5th share in their share. The plaintiffs also sought relief that the revisional survey entry in respect of Schedule II be declared as wrong and sham and the same be held to be in the name of plaintiffs with 3/5th share, defendant 1st set having 1/5th share and defendant 2nd set having 1/5th share in 88 *bighas* of land described in Schedule II of the plaint. The plaintiffs claim that suit land of Schedule I was taken on settlement under Old Khata Nos. 11, 16, 9, 19, 20 and 42 by Shiv Jatan Rai, Ram Ratan Rai, Gangadhari Rai, Ram Karan Rai, Jhingur Rai and Ram Ekbal Rai through registered *Patta* executed by Maharaja Kesho Prasad Singh of Dumraon Raj



dated 18.11.1931 for the period of 1339 *fasli* to 1346 *fasli* and subsequently, Maharaja Bahadur filed Title Suit No. 32/1939, which was compromised and Maharaja Bahadur confirmed the permanent *raiyati* of *pattedars*. One Ram Bihari Thakur also became *satedar* with the aforesaid six *pattedars*. *Satedar* Ram Bihari Thakur by amicable settlement got 88 *bighas* of land of Schedule-II and remaining land continued in possession of *pattedar*. The plaintiffs claim to have joint *Satedari right* with Ram Bihari Thakur. Accordingly, the plaintiffs claim 3/5th share out of 88 *bighas* of land. They further claim as the names of plaintiffs and defendants 2nd set have not been mentioned in the revisional survey *khatiyani*, the same requires correction according to the share of the plaintiffs and the aforesaid defendants. Thus, the suit has been instituted seeking partition as the defendants refused to partition the said property and correct the survey entry in Schedule II land.

It further transpires that plaintiff no. 9 filed an amendment application under Order VI Rule 17 read with Section 151 of the Code seeking addition of land in Schedule II of the plaint stating therein that due to lack of knowledge and non-availability of documents, some of the joint family properties have been left and the said land be added for



complete partition and complete adjudication of dispute. The defendant 1st party and defendant nos. 4 to 6 filed their rejoinder on 10.09.2015 to the amendment petition dated 05.08.2015 seeking rejection of the amendment petition on the ground of delay and also on the ground that only one plaintiff has filed amendment petition. The said application for amendment was rejected vide order dated 09.03.2017 by the learned trial court which is under challenge before this Court.

3. The learned counsel for the petitioners submitted that the learned trial court misdirected itself in taking into consideration the stage of suit and the fact that issues were framed in 2008. But the learned trial court ought to have considered that for just and proper decision in the case, the amendment was necessary. The plaintiffs were not having any knowledge of the properties proposed to be added as joint family properties recorded in the name of the ancestors of the parties, namely Mithoo Thakur in old *khatian*. The material fact showing the nature of property to be joint family property has not been denied in the rejoinder of the defendants and, thus, it would be deemed that the facts stated in the amendment application have been admitted by the defendants. Even the amendment petition has been filed not only by the plaintiff no. 9



alone but by other plaintiffs as well. But the learned trial court wrongly disbelieved the statements made in the rejoinder about the amendment application being filed only by plaintiff no. 9. The observations in this regard is error on record. The learned counsel further submitted that when the properties admittedly belong to the ancestor of the parties, there remains no doubt that such property is joint family property of descendants of such person. The learned counsel further submitted that if the impugned order is allowed to stand, it would result in irreparable loss and injury to the plaintiffs as the present suit is filed for partition and admittedly the lands sought to be incorporated are joint family properties. The amendments are not in the nature that it would change the nature of the suit or would result in retrial. The amendment is only for insertion of certain lands for partition. If the amendment is not allowed, it will result in multiplicity of proceedings between the parties. The learned counsel further submitted that the impugned order is fit to be set aside as the amendment sought for is nothing but it only relates to including some more properties in the suit and it would not change the nature of suit and it would remain the suit for partition nor the amendment would cause prejudice to the rights of the parties. The learned counsel referred to the



decision of the Hon'ble Supreme Court in the case of ***Usha Devi vs. Rijwan Ahamd and Ors.*** reported in ***(2008) 3 SCC 717*** wherein the Hon'ble Supreme Court allowed the amendment petition filed after framing of issues while imposing cost of Rs.10,000/- on the plaintiff. The learned counsel further referred to the decision of the Hon'ble Supreme Court in the case of ***Varun Pahwa vs. Renu Chaudhary*** reported in ***(2019) 15 SCC 628*** wherein the Hon'ble Supreme Court held that inadvertent mistake cannot be refused to be corrected when the mistake is apparent from the reading of the plaint. The Hon'ble Supreme Court further held that the rules of procedure are handmaid of justice and cannot defeat the substantive rights of the parties. The learned counsel also submitted that the learned trial court illegally and improperly exercised jurisdiction vested in it and passed the impugned order. Thus, learned counsel submitted that the impugned order could not be sustained and the same needs to be set aside.

4. On the other hand, learned counsel appearing on behalf of the respondent nos. 5 (i) to 5 (viii) vehemently contended that there is no infirmity in the impugned order and the same needs no interference. The learned counsel further submitted that in the partition suit, issues have been framed in



the year 2008 and, thereafter, evidence on behalf of the plaintiffs and defendants was closed. The title suit has been fixed for argument on 30.03.2009 and the learned counsel for the plaintiffs/petitioners even advanced arguments in part. The learned counsel further submitted that the property which the plaintiff wants to add in Schedule II for seeking partition was already received after *khangi* partition by one Chandrika Thakur and the ancestors of legal heirs of respondent no. 5 and others. The learned counsel further submitted that the plaintiffs/petitioners have not brought the entire suit property by way of amendment which had already partitioned and the survey *khatiyani* was prepared in the name of co-sharers and in possession column their names are clearly mentioned by the survey authority during the course of survey operation. On the basis of revisional survey *khatiyani*, the mother of the petitioners sold her share by registered deed no. 10923 dated 28.09.2005 in the name of Manish Kumar Thakur by mentioning the fact that she obtained share by way of *khangi* partition in joint Hindu family property. The learned counsel further submitted that moreover, the amendment is clearly barred by the proviso to Rule VI Order 17 of the Code, which provides that no application for amendment shall be allowed after the trial has



commenced, unless the court comes to the conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial. If the delay in bringing the amendment has not been explained and due diligence has not been shown, the proviso to Order VI Rule 17 of the Code prohibits the amendment of pleading after commencement of trial, as such, the impugned order cannot be faulted. In the present case, the petitioners have not shown due diligence and the petition for amendment was filed by the plaintiff during the course of argument which is not permissible in the eyes of law. The learned counsel relied on the decision of this Court in the case of ***Brij Mohan Upadhyay vs. The State of Bihar and Ors.*** reported in ***(2013) 3 PLJR 354*** wherein the learned Single Judge relying upon the proviso to Order 6 Rule 17 of the Code upheld the decision of the learned trial court holding that the learned trial court has rightly not entertained the amendment petition on the ground of delay as proviso to Order 6 Rule 17 prohibits the amendment of pleading after commencement of trial unless due diligence is shown. In the instant case, the plaintiffs failed to show any such due diligence. Thus, learned counsel submitted that if the learned trial court rejected the application for amendment, there is no illegality in the order.



The learned counsel reiterated that the amendment petition has been filed by the plaintiffs with oblique motive and *malafide* intention to grab the allotted shares of respondents and others. Therefore, rejection of such amendment application does not need any interference by this Court and the impugned order needs to be affirmed.

5. I have given my thoughtful consideration to the rival submission of the parties and perused the records.

6. The issue before this Court is whether amendment petition could have been allowed after the trial has commenced and evidence of both sides have been closed.

7. Order VI Rule 17 of the Code provides for amendment in pleading and it reads as under:-

“17. Amendment of pleadings.-The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the



*party could not have raised the matter before
the commencement of trial.”*

8. Though the amendment could be allowed at any time prior to commencement of the trial in order to determine the real controversy between the parties, if the amendments are sought after commencement of trial, then the person applying for amendment has to show that despite due diligence he could not have moved the application for amendment prior to commencement of trial. The courts have been liberal in allowing the amendment but there are certain exceptions. A time barred claim cannot be allowed by way of amendment. Similarly, *mala fide* amendments are not to be allowed.

9. The Hon'ble Supreme Court in the case of ***Basavaraj vs. Indira & Ors.*** reported in **(2024) 3 SCC 705**, has held that the Court should not allow the amendments at belated stages if due diligence has not been shown. In the case of ***Basavaraj*** (supra), the Hon'ble Supreme Court quoted the case of ***M. Revanna vs. Anjanamma*** reported in **(2019) 4 SCC 332** and held that Order VI Rule 17 of the Code prevents an application for amendment after the trial has commenced unless the Court comes to the conclusion that despite due diligence the party could not have raised the issue. The Hon'ble Supreme



Court further held that the burden is on the party seeking amendment after commencement of trial to show that in spite of due diligence, such amendment could not be sought earlier. The Hon'ble Supreme Court refused to allow the amendment as it was found that plaintiffs came to know about the factum sought to be incorporated as amendment in the year of filing of their suit and there was no explanation by them as to why they did not file the application for amendment for 15 years.

10. Further, the Hon'ble Supreme Court in the case of ***Vijay Hathising Shah and another vs. Gitaben Parshottamdas Mukhi and Others*** reported in ***(2019) 5 SCC 360*** has held in paragraph 9 as under :

“9. In our view, the trial court was right in rejecting the application. This we say for more than one reason. First, it was wholly belated; second, Respondent 1-plaintiff filed the application for amendment of the plaint when the trial in the suit was almost over and the case was fixed for final arguments; and third, the suit could still be decided even without there being any necessity to seek any amendment in the plaint. In our view, amendment in the plaint was not really required for determination of the issues in the suit”.

11. In the present case, the plaintiff no. 9, namely



Kamleshwar Thakur sought addition of a number of plots along with their details in Schedule II of the plaint. In his petition seeking amendment, the plaintiff has stated that due to lack of knowledge and lack of documents, certain property was left to be mentioned in Schedule of the plaint and the same was necessary for the purpose of complete adjudication of the dispute. But the plaintiff has not stated anywhere that when he came to know about these properties sought to be added through amendment. Therefore, the story of the plaintiffs about subsequent knowledge does not appear to be believable. This fact assumes importance since the amendment has been sought after closure of evidence of the parties as it appears from the impugned order. Thus, it is evident that the amendment has been sought after commencement of trial but the plaintiffs/petitioners have failed to show that in spite of due diligence, they could not have raised the matter before commencement of trial. Merely making averment that due to lack of knowledge about the documents and due to non-availability of documents, the plaintiffs could have mentioned certain lands as the suit property would not suffice for the purpose of the amendment.

12. Furthermore, the plaintiffs/petitioners have failed to show that despite due diligence they could not have raised the



matter prior to commencement of trial. Such amendment would be barred by proviso to Order VI Rule 17 of the Code. The learned trial court also considered the submission made on behalf of the plaintiffs and found it unconvincing that the plaintiffs were ignorant about the fact with regard to details of joint family property. Similarly, the learned trial court did not find any cogent reasons for condoning ordinate delay in moving the amendment petition. The plaintiffs/petitioners utterly failed to show that why they could not have raised the matter previously though it has always been mentioned that the *khatiyani* existed in the name of Mithoo Thakur. The learned trial court has also noted the fact that the plaintiffs/petitioners did not seek the amendment at appropriate time, rather he brought the amendment after completion of evidences of both the sides and almost at the final stage of the suit, that too without any valid and cogent reasons. Hence, in my opinion, such amendment will be hit by proviso to Order VI Rule 17 of the Code as the amendments have been sought at highly belated stage and could not be allowed. Reliance could be placed in this regard on the decisions of the Hon'ble Supreme Court in the cases of ***Basavaraj*** (supra) and ***Vijay Hathising Shah*** (supra).

13. In the light of discussion made hereinabove as



well as law laid down by the Hon’ble Supreme Court, I do not find any infirmity in the impugned order as the amendment was clearly barred by proviso to Order VI Rule 17 of the Code and no due diligence has been shown in seeking the amendment prior to commencement of trial. Hence, the impugned order dated 09.03.2017 is affirmed.

14. Finding no merit in the present petition, the same stands dismissed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	AFR
CAV DATE	21.01.2025
Uploading Date	28.02.2025
Transmission Date	NA

