

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1689 of 2017

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Rajindra Yadav Son of late Ramjeee Yadav Resident of Village-Semari
Bhawanipur P.S. Nawalpur Jogapatti District West Champaran

... .. Petitioner/s

Versus

1. Sheo Shankar Prasad Son of late Mahadev Prasad, Resident of Village-Semari Bhawanipur P.S. Nawalpur Jogapatti District West Champaran
2. Jagarnath Yadav Son of late Jadu Yadav Resident of Village-Dhabelwa, P.O. P.S. Nawalpur District West Champaran.
3. Nathuni Yadav
4. Hira Yadav.
5. Dhurup Yadav. Son of late Prayag Yadav.
6. Sandesh Yadav Son of late Khira Yadav
7. Lalita Devi
8. Radhika Devi Wives of Late Mahanth Yadav
9. Manoj Yadav Son of late Mahanth Yadav
10. Premshila Kumari D/o Late Mahanth Yadav.
11. Panna Lal Yadav
12. Gagandeo Yadav
13. Birjhan Yadav. Sons of late Ramjee Yadav. Serial no. 3 to 13 Resident of Village-Semari Bhawanipur P.O. P.S. Nawalpur Jogapatti District West Champaran.
14. Kalahi Devi D/o Late Juthan Yadav Wife of Mahabir Yadav Resident of Village-Salahan Bariyawa, P.s. Chautrwa District West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Lalan Kumar Verma, Advocate
For the Respondent/s : Mr.Gauri Shankar Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 17-06-2025 Heard learned counsel for the parties.

2. The petitioner is aggrieved by the order dated
28.06.2017 passed by the learned Sub Judge-VIth, Bettiah, West



Champaran in Title Suit No. 253 of 2010 whereby and whereunder the learned trial court rejected the part amendment in written statement filed on behalf of the defendant/petitioner.

3. Learned counsel for the petitioner submits that the learned trial court has passed the order against the fact and law. The learned trial court rejected the part amendment without assigning any reason. The petitioner has sought to bring the amendment in connection with typographical error but the learned trial court did not consider this fact and further failed to consider that the year of death of one Juthan Ahir was not in issue between the parties. The learned trial court further failed to consider that the proposed amendment relates to correction of typographical mistake of year of death of one Juthan Ahir from 1951 to 1961 which was not like withdrawing any admission and was merely correction in the typing mistake. Such correction would not change the nature of the suit and would not cause prejudice to the other side in any manner. Correction in the year of death of Juthan Ahir is only to place the correct fact before the court and has no other significance. Therefore, the learned trial court committed an error in rejecting the amendment with regard to correction in the year of death of Juthan Ahir.



4. Learned counsel appearing on behalf of the respondents vehemently contends that there is no infirmity in the impugned order and the same has been passed considering the fact and law on the point of amendment. Learned counsel further submits that the amendment has been sought after closure of evidence of the plaintiff and at the time of the evidence of the defendant but without showing any due diligence as to why the amendment could not be brought earlier. Learned counsel further submits that the defendant/petitioner wants to withdraw an admission with regard to year of death of Juthan Ahir as it is the specific case of the plaintiff that Juthan Ahir died in the year 1951 and the same was admitted by the defendant/petitioner. Therefore, the defendant/petitioner could not be allowed to withdraw the specific admission by way of amendment. Further, no material has been brought on record to show the death of Juthan Ahir occurred in the year 1961 and not in the year 1951 which has already been admitted. Thus, the learned counsel submits that the impugned order does not need any interference by this Court.

5. Perused the record.

6. Having regard to the rival submission of the parties and on consideration of the material available on record, it is



clear from the copy of plaint that there is specific case of the plaintiff in paragraph no.2 that Juthan Ahir died in the year 1951. The same was admitted by the defendant/petitioner in paragraph no.6. When there is specific admission, the same could not be allowed to be withdrawn. The Hon'ble Supreme Court in the case of ***Modi Spinning & Weaving Mills Co. Ltd. And Ors. Vs. Ladha Ram & Co.*** reported in ***AIR 1977 SC 680.***, held that once an admission is made in respect of certain status, it is not open to the other party to wriggle out of such a situation by retracting or withdrawing from the said admission which would be detrimental to the interest of the other side. Further the amendment has been sought after commencement of trial without showing any due diligence on part of the defendant/petitioner that despite his best effort he could not have sought the amendment earlier in time. There is no reason or explanation for bringing the amendment at a later stage after commencement of trial. On these two points, the proposed amendment could not be allowed. Though the learned trial court has not mentioned any reasons but the rejection of part amendment does not suffer from any infirmity and is fortified by the reasons given by this Court.

7. In the light of clear position of law, I do not find



any infirmity in the impugned order and hence, the same is affirmed.

8. Accordingly, the present petition stands dismissed.

(Arun Kumar Jha, J)

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