

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.2019 of 2017**

Etwarei Kumar Jaiswal son of Late Surya Narayan Choudhary, resident of Mohalla- Supaul, Ward No. 12, Nagar Parishad, Supaul, P.O. and P.S. District- Supaul.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Sub Divisional Magistrate, Supaul, District Supaul.
3. Sanjeev Kumar, the Deputy Collector, Supaul, presently posted as Senior Deputy Collector, Land Acquisition, Bihar Rajya Awas Board, Patna.
4. The Block Supply Officer, Supaul at District Supaul.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Alok Kumar Agrawal, Advocate
For the Respondent/s : Mr. Md. Kamil Akhtar, AC to AAG-5

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

3 24-07-2025 Heard learned counsel for the petitioner and learned counsel for the State respondents.

2. The petitioner is aggrieved by the order dated 10.08.2017 passed by the Sub-Judge-III, Supaul in Money Suit No. 03 of 2016 whereby and whereunder the petition dated 04.02.2017 filed under Order 6, Rule 17 of the Civil Procedure Code (Hereinafter referred to as “Code”) was rejected.

3. Shorn of unnecessary details the facts of the case are that the petitioner has filed Money Suit before the learned trial Court bearing number 03 of 2016 against the State respondents. The petitioner was a licensed Kerosene oil vendor and a criminal proceeding was started against the petitioner for



certain irregularities. However, license of the petitioner was neither suspended nor cancelled by the Licensing Authority. The petitioner filed a Criminal Miscellaneous proceeding before this Court for quashing the entire Criminal Proceeding and *vide* order dated 07.07.2015 passed in Cr. Misc. No. 50741 of 2012, this Court quashed the order taking cognizance dated 15.02.2011 passed by the learned Sub-Divisional Judicial Magistrate, Supaul in Supaul P.S. Case No. 65 of 2010.

4. The petitioner further claimed that as his allocation of Kerosene oil was stopped by the Sub-Divisional Officer when neither the license was evoked nor suspended and the livelihood of the petitioner was taken away by the orders of the Licensing Authority, the petitioner filed a Writ Petition before this Court bearing number CWJC No. 8067 of 2011. This Court directed the Sub-Divisional Officer to allocate monthly quota of Kerosene oil to the petitioner *vide* its order dated 27.06.2011. Pursuant thereto, the Sub-Divisional Officer *vide* his Memo No. 60-2, dated 23.02.2012 issued a direction for allocation of monthly quota to the petitioner for the period during which his allocation of Kerosene oil was suspended and no allocation was made, i.e., from 27.03.2010 till 23.02.2012. Thereafter, the petitioner moved to file a Suit claiming



compensation for mental and physical humiliation and for economic loss, calculating it to be Rs. 3 lakhs. To this end, the petitioner filed Money Suit No. 03 of 2016. During the pendency of the said Money Suit, an application was filed on 04.02.2017 under Order 6 Rule 17 of the Code by the petitioner, seeking certain amendments in Paragraph nos. 8, 11 and 14 of the plaint, but the said prayer for amendments was rejected by the learned trial Court *vide* order dated 10.08.2017, which is under challenge before this Court.

5. Learned counsel for the petitioner submits that the amendments sought by the petitioner in his plaint is by way of explanation as due to typing mistake certain lines could not be typed in the averments regarding breakup of Rs. 3 lakhs. Further, amendments has been sought regarding territorial jurisdiction of the Court. Further, interest on the claimed amount which could not be claimed in the relief portion has been sought to be added.

6. Learned counsel further submits that these amendments are routine in nature and could not change the nature of the Suit, still the learned trial Court rejected the application holding that the amendments could cause prejudice to the interest of the defendants. The learned trial Court did not



discuss the nature of the amendments and by a cryptic order rejected the application for amendment and hence the said order of rejection is non-sustainable.

7. Learned counsel for the State respondents vehemently contend that there is no infirmity in the impugned order and the same needs to be sustained. Learned counsel for the State further submits that the amendments sought by the petitioner are prejudicial to the interest of the State respondents and when the plaintiff-petitioner was aware about these facts, he ought to have incorporated these facts in the plaint from the very beginning. Therefore, there is no need to interfere with the impugned order.

8. I have given my thoughtful consideration to the rival submission of the parties and perused the record. From averments made in the petition it appears that when the amendment application was filed, the Suit was at its initial stage and trial has not commenced. Moreover, the amendments sought do not appear of such nature as to cause any prejudice to the defendants / respondents. The first amendment is with regard to the breakup of the claimed amount and it is merely explanatory. The other amendment regarding territorial jurisdiction or claiming the relief of interest could not be said to be of such



nature as to fall in category of *mala fide* or causing prejudice to the defendants / respondents. Therefore, I am of the view that the learned trial Court completely erred on its part and exercised jurisdiction in improper manner.

9. Therefore, the impugned order dated 10.08.2017 is not sustainable and hence the same is set aside and the amendment application dated 04.02.2017 is allowed. However, the defendants would be given ample opportunity to rebut the contention of the plaintiff by way of filing amended / additional written statement.

10. Accordingly, the present petition stands allowed.

(Arun Kumar Jha, J)

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