

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1136 of 2019

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Ram Bilash Singh S/o Ram Badan Singh Resident of Village
Khamhar, Pargana-Ballia, P.S. Muffasil, Dist. Begusarai

... .. Petitioner/s

Versus

1. Md. Usman S/o Late Md. Salim Mian Resident of Village Mobarakpur Tola Phulkari Pergana-Malki, P.S. Birpur (Barauni), S.R. Teghra, Sub-Division and Dist. Begusarai.
2. Ahmad S/o Late Md. Salim Khan Resident of Village Mobarakpur Tola Phulkari Pergana-Malki, P.S. Birpur (Barauni), S.R. Teghra, Sub-Division and Dist. Begusarai.
- 3.1. Mohd. Saddam, Son of late Mr. Mushtaque Khan, Resident of village-Mubarakpur, Tola- Phulkari, Police Station- Birpur (Barauni), District-Begusarai.
- 3.2. Mohd. Qurban, Son of late Mr. Mushtaque Khan, Resident of village-Mubarakpur, Tola- Phulkari, Police Station- Birpur (Barauni), District-Begusarai.
- 3.3. Mohd. Vakeel, Son of late Mr. Mushtaque Khan, Resident of village-Mubarakpur, Tola- Phulkari, Police Station- Birpur (Barauni), District-Begusarai.
4. Sakina Khaton D/o Late Md. Salim Khan Resident of Village Mobarakpur Tola Phulkari Pergana-Malki, P.S. Birpur (Barauni), S.R. Teghra, Sub-Division and Dist. Begusarai.
5. Rabaida Khatoon D/o Late Md. Salim Khan Resident of Village Mobarakpur Tola Phulkari Pergana-Malki, P.S. Birpur (Barauni), S.R. Teghra, Sub-Division and Dist. Begusarai.
6. Jasima Khatoon D/o Late Md. Salim Khan Resident of Village Mobarakpur Tola Phulkari Pergana-Malki, P.S. Birpur (Barauni), S.R. Teghra, Sub-Division and Dist. Begusarai.
7. Mosima Khatoon D/o Late Md. Salim Khan Resident of Village Mobarakpur Tola Phulkari Pergana-Malki, P.S. Birpur (Barauni), S.R. Teghra, Sub-Division and Dist. Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh, Advocate Mr. Rajeev Kumar, Advocate
For the Respondent/s	:	Mr. S.K. Pal, Advocate

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CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

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10-11-2025

The present Civil Miscellaneous application has been



filed for setting aside the order dated 10.05.2019 passed by learned 9th Additional District Judge, Begusrai in S.J.T.A. No. 61 pf 2012 by which prayer of the respondents for amendment in the written statement under Order 6 Rule 17 of CPC has been allowed at the appellate stage.

2. Learned counsel for the petitioner submits that the amendment sought for by the respondent has been allowed under Order VI Rule 17 and Section 151 of CPC for correcting the date of deed of agreement dated 05.02.1997 in place of 05.02.1999 as earlier mentioned in WS. Learned counsel further argues that Title Suit was filed by him in the year 2001 which was decreed in his favour and against the said judgment and decree, the respondent has filed Appeal No. 61 of 2012 in which he has sought the above amendment before the Appellate Court which was allowed by the impugned order. Learned counsel also submits that even after four years from filing of appeal the said amendment has been allowed by the Appellate Court which is not just and legal.

3. Contrary to this, learned counsel for the respondent submits that the aforesaid amendment does not change the very nature of the suit rather it is a typographical error which was rectified in appeal after knowing the error by the concerned



advocate in appeal. The aforesaid order regarding amendment does not cause prejudice to the plaintiff petitioner hence, the order is just and legal.

4. After considering the submissions of both the parties, it transpires that in paragraph nos. 7 and 8 of the plaint there is specific mention of date regarding agreement to sale which was the subject matter of the suit. In reply to that averment, defendant respondent pleaded in their written statement in paragraph nos. 13 and 14. They have pleaded that contents in paragraph no. 7 of the plaint are totally false, there was no talk of contract of sale of palm tree for a consideration amount of Rs. 32, 000/- and there is no occasion for the same.

5. In the aforesaid paragraph no. 13 of the WS, he has mentioned the date of agreement to sale as 05.02.1999 in place of 05.02.1997 which is certainly a typographical mistake. Apart from that the defendant has totally denied and controverted the aforesaid factum of deed of agreement to sale. So, no any question of causing prejudice to the plaintiff petitioner from the aforesaid impugned order but certainly the amendment has been allowed after much delay and no plausible explanation has been given on behalf of respondent for this. But for proper and complete adjudication of appeal, the Appellate Court has passed



the said order which appears to be just and proper despite of much delay. Hence, a cost of Rs. 10,000/- (Rs. Ten thousand) is imposed on the respondent which is payable to the petitioner within a period of one month from the date of receipt/production of the copy of this order. Further, learned Appellate Court is requested to dispose of the said appeal at the earliest preferably within a period of two months from the date of receipt/production of this order.

6. Accordingly, the instant application stands disposed of.

(S. B. Pd. Singh, J)

Ankit Kumar/-

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