

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.997 of 2017**

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Surendra Nath Tiwari son of Narayan Nath Tiwari, resident of village P.O. P.S-
Kutumba, District Aurangabad.

... .. Petitioner/s

Versus

1. Smt. Ram Kumari Devi Wife of Sri Anurudh Kumar Singh
- 2.1. Avinash Kumar Singh Son of Late Anurudh Kumar Singh, R/o Vill and PO
and P.S - Kutumba, District - Aurangabad.
- 2.2. Vyom Ranjan Kumar Son of Late Anurudh Kumar Singh, R/o Vill and PO
and P.S - Kutumba, District - Aurangabad.
- 2.3. Shashank Kumar Singh Son of Late Anurudh Kumar Singh, R/o Vill and PO
and P.S - Kutumba, District - Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Sinha, Adv.
For the Respondent/s	:	Mr. Ajit Ranjan Kumar, Adv.

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

Date : 31-07-2025

Heard learned counsel for the petitioner as well as
learned counsel for the respondents.

2. The petitioner is aggrieved by the order dated
12.05.2016 passed by learned Additional District Judge-IV,
Aurangabad in Title Appeal No. 41 of 1995 whereby and
whereunder the application of the appellant seeking amendment
in plaint of Title Suit No. 85 of 1990/117 of 1992 was rejected.

3. Learned counsel for the petitioner submits that the
petitioner was the plaintiff and thereafter the appellant before
the learned 1st appellate court. He has filed the application for
amendment for adding a new paragraph 6(a) and the

amendments are explanatory in nature also the evidence to the contents of amendment is already on record. The amendments have already been described in evidence by the witnesses of the plaintiff. The learned counsel further submits that the same would not change the nature of the suit and would not cause any prejudice to the other side as evidence in this regard has already been recorded. Therefore, the impugned order is not sustainable.

4. Learned counsel appearing on behalf of the respondents vehemently opposes the submission of the learned counsel for the petitioner. Learned counsel submits that the amendments have been sought at a very belated stage and one of the amendments relates to the property which is not the suit property and no explanation is forthcoming as to why such amendment has been sought. So far as 2nd amendment is concerned, the same is completely *malafide* and the learned counsel has failed to explain as to why the said facts was not incorporated in plaint from the very beginning or even during the trial.

5. Perused the record.

6. On perusal of the record and especially the impugned order, it appears the plaintiff lost the title suit before the learned trial court wherein the case of the defendant was that

after death of the ancestors of the parties, namely Ramakant Mishra, his two sons Mathura Mishra and Baijnath Mishra amicably partitioned the suit land. After death of Baijnath Mishra, his wife Massomat Tapeswari Kuer who is defendant no. 3 succeeded the estate of her husband and accordingly dealt with the same. On the other hand, the case of the plaintiff was that Baijnath Mishra died prior to 1937 and therefore, the widow did not get any right in the estate of her late husband. Apparently, the claim of the plaintiff has not been believed by the learned trial court which dismissed the suit. Therefore, the amendment claiming otherwise and disputing the right of Massomat Tapeswari Kuer has to be seen in the light of the decision of the learned trial court since the amendment has been sought at a very belated stage. Further there is no explanation for bringing the amendments at such belated stage except saying that it would not cause prejudice to the other side or the same has been mentioned in the evidence of the witnesses of the plaintiffs. Even the 1st amendment for which the learned 1st appellate court noted that it was not with regard to the suit property and details of some other properties are being sought to be introduced and thus, the said amendment was also within the knowledge of the plaintiff from day one. Since both the

amendments are being sought at a very belated stage and without showing any due diligence as to why the amendment could not have been brought earlier and also considering the finding of the learned 1st appellate court that the proposed amendments have no significant bearing on adjudication of the matter in controversy between the parties, I think the amendment application of the petitioner is devoid of any merits. Moreover, the amendments sought do not appear to be *bona fide* and rather appears to cover the lacunae in the case of the petitioner.

7. Hence, I find no infirmity in the impugned order dated 12.05.2016 and the same is affirmed.

8. Accordingly, the present petition stands dismissed.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
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