

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1587 of 2017

Ram Pravesh Sah Son of Baij Nath sah, Resident of Village-Karinga Kothi,
Police Station-Chapra Muffasil, District-Saran at Chapra

... .. Petitioner/s

Versus

1. Ram Nath Sah Son of Bhuneshwar sah, Resident of Village-Karinga Kothi,
Police Station-Chapra Muffasil, District-Saran at Chapra
2. Ramchandar Sah Son of late Mita Sah
3. Daroga Sah Son of late Bangali Sah
4. Sheo Pujan Mahto
5. Deo Pujan Mahto Both are Sons of late Ram Pravesh Mahto, All 2 to 5 are
Resident of Village-Karinga Kothi, Police Station-Chapra Muffasil, District-
Saran at Chapra.
6. Baijnath Sah Son of late Visheshar Sah Resident of Village-Karinga Kothi,
Police Station-Chapra Muffasil, District-Saran at Chapra

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Narendra Kumar, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 14-07-2025

Heard the learned counsel for the petitioner and I intend to dispose of the present petition at the stage of admission itself.

02. The petitioner is aggrieved by the order dated 31.07.2017 passed by the learned Sub Judge-IV, Chapra in Title Suit No. 370 of 2004 whereby and whereunder the application dated 26.08.2016 filed by the plaintiff/petitioner under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short 'the Code') has been rejected.

03. Learned counsel for the petitioner submits that the



impugned order is not sustainable and it is illegal and improper. The plaintiff/petitioner has filed this amendment application to clarify the pleading and seeking a relief on the basis of such pleading, which has been left to be mentioned in the main plaint. Learned counsel further submits that the plaintiff has mentioned about Title Suit No. 228 of 1993 in paragraph nos. 9, 10 and 11 of his plaint about the defendant/respondent 1st set in the present case getting a fraudulent decree from the court with regard to suit property and the plaintiff has sought amendment to reproduce this fact after para-11 that by the said Title Suit No. 228 of 1993, the defendant no. 1 did not get any right, title or possession and the decree is a void document and thereafter, sought the relief that the decree of Title Suit No. 228 of 1993 be declared void and frivolous document by which the defendant no. 1 did not get any title or possession over the suit property. Learned counsel further submits that the said amendment is necessary for adjudication of real question of controversy between the parties and though the amendment has been sought at a late stage, still, in the interest of justice, it should have been allowed.

04. Perused the record.

05. It is evident from the perusal of the impugned order dated 31.07.2017 that the amendment has been sought at the stage of argument and it is also a fact that the



plaintiff/petitioner has mentioned about the same facts in paragraphs-9, 10 and 11 of his plaint though in different terms. It is also apparent from the pleadings that father of the plaintiff/petitioner was a party in the said suit. Thus, the plaintiff/petitioner is seeking an amendment from a court of same jurisdiction about declaration of decree, which was passed by the court of same jurisdiction, to be a void document, for which the plaintiff/petitioner has separate remedy available.

06. In any case, the amendment has been sought much after the commencement of trial and specifically at the time of argument. There is no material brought on record to show that plaintiff/petitioner could not have sought this amendment before the commencement of trial. The suit was filed in the year 2004 and the facts about Title Suit No. 228 of 1993 have already been mentioned in paras-9, 10 and 11 of the plaint and still, the plaintiff did not mention this fact in his plaint for almost 10 years. There is no explanation for the delay in seeking amendment. 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 6 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 earlier 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. From the facts of the present case, it is much apparent that no due diligence has been shown for not bringing the said amendment earlier at any point of time.

07. Further, the Hon'ble Supreme Court in the case of ***M/s. Revajeetu Builders & Developers Vs M/s. Narayanaswamy & Sons & Ors***, reported in ***2009 AIR SCW 6644*** in paragraph 67 has formulated basic principles in Para-67 for allowing or rejecting the application for amendment which reads as under:-

“67. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.

(1) Whether the amendment sought is imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?



- (3) *The amendment sought not cause such prejudice to the other side which cannot be compensated adequately in terms of money;*
- (4) *Refusing amendment would in fact lead to injustice or lead to multiple litigation;*
- (5) *Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case? And*
- (6) *As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.*”

(emphasis supplied)

08. Thus, the amendment sought to be introduced is clearly barred by the provisions of Order-VI Rule 17 and the same has been rightly rejected by the learned trial court. Therefore, finding no infirmity and no error of jurisdiction in the impugned order dated 31.07.2017, the same is hereby affirmed.

09. Accordingly the present petition stands dismissed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.07.2025
Transmission Date	NA

