

THE COURT OF MUNSIF, SUB-DIVISIONAL CIVIL COURT, PIRO.

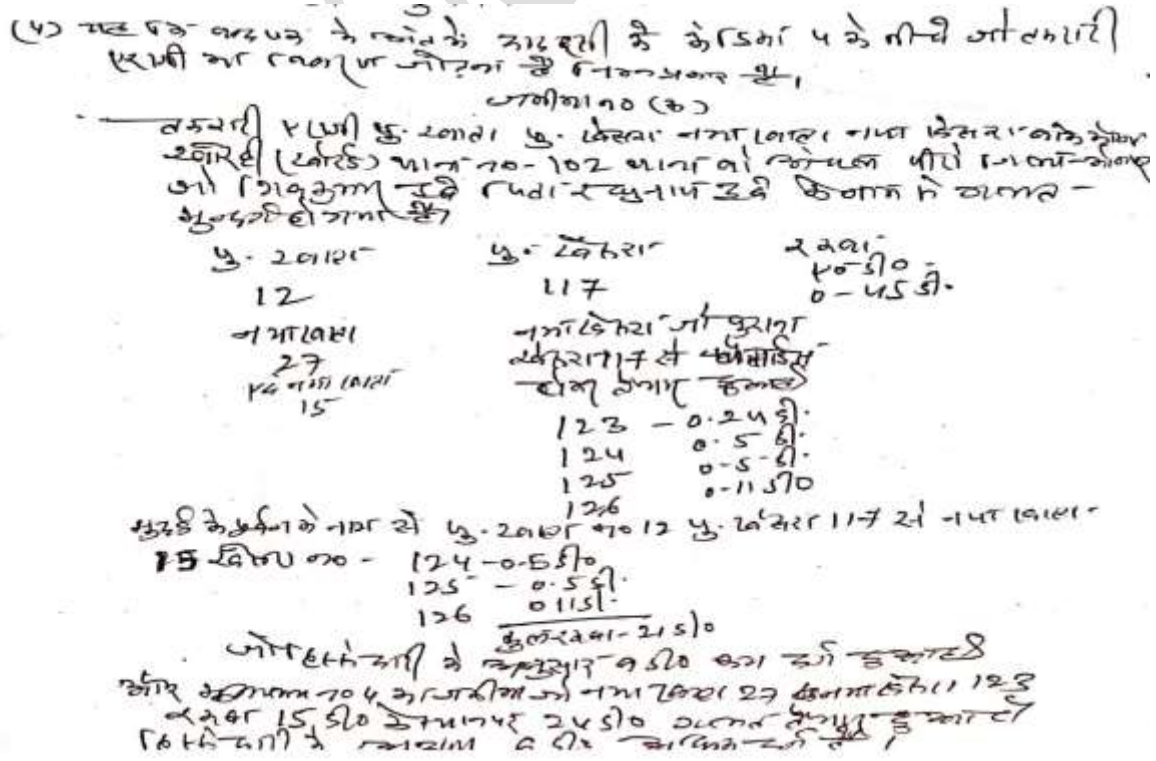
DISTRICT- BHOJPUR AT ARA.

Title Suit No. 49 of 2017

Rampukar Singh & Ors.

V.

Lalbahadur Singh & Ors.

Date of Order or Proceeding	Order with the signature of the court	Office action taken with date
14.09.22	1. Attendance on behalf plaintiff no. 1, defendant no. 4 and defendants no. 1 to 3 have been filed respectively by their Ld. Counsel. The present case-record is fixed today for hearing and order on a pending petition dated 20.08.2019 filed on behalf of plaintiff no. 1 under Order 6 R. 17 r/w 151 of the CPC and in its reply, a rejoinder dt. 03.10.2019 has been filed on behalf of defendant no. 4 while defendants no. 1 to 3 have been debarred from filing their rejoinder vide order dt. 31.08.2022. Ld. Counsels of plaintiff no. 1 and defendant no. 4 appeared and concluded their hearing with closing argument. Since Ld. Counsel of defendants no. 1 to 3 didn't appear for hearing nor filed any rejoinder, it is presumed by the court that he has nothing to say on above petition filed by plaintiff. <u>ORDER</u> 2. Ld. Counsels on behalf of plaintiff no. 1, while pressing his petition dt. 20.08.2019 submitted that full description of suit land in Schedule A has been missed in relief section of the plaint due to mistake of typist which is essential to be added. Further submitted that said mistake could not be noticed at the time of filing plaint and plaint was filed. It is further submitted that said proposed amendment is of formal nature and the same will not affect the nature and scope of plaint and further it will also not cause loss to the opposite parties and inter-alia prayed to permit the insertion of following texts reproduced in verbatim: -  3. Ld. Counsel on behalf of defendants no. 4 vide rejoinder dated 03.10.2019 has opposed the petition of the Plaintiff by stating that the present petition is not maintainable in eye of law and liable to be	

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14.09.22

dismissed. Further it has been stated that this petition has been filed after thought and filed with wrong facts to linger the case. The main grounds urged by defendant no. 4 is that plaintiffs have filed the instant petition dt. 20.08.2019 in which description of khata, khesra mentioned therein is different from plaint and khatian which is contrary to nature and scope of case and hence such amendment is against the law and liable to be dismissed. Further, it has been contended that what schedule A has been shown in the instant petition *prima vista* reflects that recent khata- 27 is made up from old khata- 12 and four new khesra- 123, 124, 125, 126 is made up from old khesra no. 117 which is quite different from recent khata no. 27 because there exist description of merely two khesra no. 123 & 130 from new khata no. 27 falling within mouja- khorahi, Police Station no. 102 and thus, statement of plaintiffs are contradictory and vague which is liable to be dismissed. It is further submitted that upon production of referred new khatian khata no. 27, it would be automatically authenticated that only one khesra no.-123 rakba- 24 decimal has been made up from recent khata no. 27 and hence, amendment sought by plaintiff is different from khatian and inter-alia prayed to dismiss the suit with heavy cost.

4. Heard both sides and perused the Case Record sincerely. Upon perusal of the same, it appears that present suit is pending at the stage of Plaintiff Evidence and no any plaintiff witness has been examined and at this stage the present amendment petition has been filed by the Plaintiff. In the present petition plaintiff has sought for insertion of Schedule of properties with recent khata & khesra in reference to old khata and khesra at end of the Plaint. Plaintiff has stated that omission to mention the same has done by the typist due to mistake. The objections whatever raised by defendant appears not tenable.

5. As regarding the proposed amendment filed by Plaintiff this Court is of considered view that the proposed amendment appears to be a natural human error and further the said omission of mentioning description of khata & khesra in "Schedule-A" would become fatal for the case of the Plaintiff. Further Petition under order 6 Rule 17 CPC can be moved at any time as per law and can be allowed for determining the real question in controversy. The said petition has been well supported with an affidavit and verification of the same has been done by plaintiff. In considered opinion of this court, the proposed amendment is essential for determination of real question in controversy and further it also do not change the nature of the suit. Further the reasons assigned by Plaintiff for amendment are well explained and satisfies the condition mentioned in proviso of the Order 6 Rule 17 CPC.

6. Considering the aforesaid facts, present Petition dt. 20.08.2019 is hereby allowed at a cost of Rs.125/- to be given to each defendant of the case and further Plaintiff is directed to carry out the necessary formality of amendment in the plaint within the statutory period **i.e. 14 days from date of this order.**

7. The defendants shall have liberty to file additional Written Statement in regard to the permitted amendments in the plaint within prescribed period as per law **i.e. 30 days from date of this order.**

Put up on 29.09.2022 for compliance of the order and further proceeding in the case.

Sd/-

Munsif, Piro.