

In the court of Civil Judge (Sr. Division)-VI, Patna City
T.S. 67/1995

12-07-2024

Today the record is put for order on a petition dated 29.09.2023 filed on behalf of defendant no. 1 & 2 u/s 6 rule 17 read with section 151 CPC. The rejoinder to the petition was filed by plaintiff on dated 28.06.2024. The petitioner has also file case law of web copy of order dated 11.01.2023 passed by Hon'ble Mr. Justice Anil Kumar Sinha in Civil Misc. Case No. 626 of 2018.

Heard both sides and perused the case record. The petitioner has prayed that in view of subsequent addition of the parties as defendants in the suit and as well as per their separate respective claims concerning the exclusive properteis of these defendants under the control, supervision and supertendent of the defendant no. 03, it has become all the more necessary and essential to these defendants to file the reburtal where of by way of additonal pleading as well as to seek counter claim also and hence arose the necessity of the petition. From the admission of the petitioner in his petition u/o 6 rule 17 CPC, it is clear that the petitioner want to filed reburtal by way of additional pleading and they also want to seek counter claim. From the perusal of the petition of petitioner it is clear that they have sought to introduce new defence in their favour and seek counter claim. It is to be noted that u/o 8 rule 6(A) CPC the counter claim has to be filed before the defendant deliver his defence or before the time limited for delivery of his defence is expired. U/o 6 rule 17 CPC, amendment shall not be allowed after trial has commenced unless the court comes to conclusion that inspite of due deligence the party could not have raised the matter before the commencement of the trial. The petitioner has not produced any reasonable fact to show that his petition comes under the proviso of order VI rule 17 CPC. Moreover, the nature of ammendment sought by the petitioner is such that it alters the nature of suit and cause of action. The present case is at the stage of evidence of defendant. It should also be noted that the Hon'ble High Court of Patna has directed this court to dispose of the case within six month of order. So, considering the above fact and circumstances allowing the amendment petition u/o VI rule 17 CPC would not be in the interest of justice as

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would lead to unnecessary delay of case.

Hence this court in the interest of justice deems it proper to reject the petition filed on behalf of defendant 01 and 02 u/o VI rule 17 read with section 151 CPC.

Putup on ...~~19-7-24~~..... further proceeding.



Civil Judge (Sr. Division)-VI
Patna City