

D.J. Division, Sheikhpura
In The Court of Sri Pawan Kumar Pandey
Principal District Judge, Sheikhpura.
M.T.A No. 24/2013
C.I.S. No.- Title Appeal 140/2013

ORDER

06.06.2025 (1). The present Munsif Title Appeal is pending for order on the application dated 14.06.2019 U/o VI Rule 17, wherein Ld. Advocate for the respondents/plaintiffs have prayed to allow the amendment application and to allow amendment in the application. An objection application dated 09.09.2019 has been filed on behalf of the appellants/defendants praying for rejection of the amendment sought in the application dated 14.06.2019 filed on behalf of the respondents/plaintiffs.

2. Ld. Advocate for the respondents/plaintiffs has submitted that the instant appeal is fixed for argument and is likely to be heard and in the meanwhile the respondents/plaintiffs discovered that in Relief No. (b) of the plaint, an important clause after the word "plaintiffs" was omitted due to a typist's mistake. Relief No. (b) existing in the plaint runs as follows – "A decree confirming the possession of the plaintiffs over the suit property be passed". The left-out clause of the sentence after word "plaintiffs" is "as owners with recovery of possession". It is mentioned in the plaint that the appellants/defendants are in possession over the suit premises as tenant and an eviction suit was also filed earlier, which is pending in appeal in the Hon'ble High Court, this fact is admitted by the appellants/defendants in their written statement.

Proposed amendment in the plaint – (i) In Page No. 6 Para No. 14 (b) after word "Plaintiffs" the clause " as owners with recovery of possession" be allowed to be incorporated in the plaint.

The proposed amendment is innocuous and does not in any manner adversely affect the interests of the appellants. Ld. Advocate for the respondents/plaintiffs have prayed to allow the amendment application and to allow amendment in the application.

3. An objection application dated 09.09.2019 has also been filed on behalf of the appellants/defendants. Ld. Advocate for the appellants/defendants has submitted that the amendment sought by the respondents/plaintiffs is a clever device to change the nature of the plaint at the appellate stage, since the trial of the suit has been completed and judgment has

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06.06.2025 also been pronounced by the trial Court on the basis of the pleadings of the parties and their evidence and documents, and no question of amendment of the plaint arises at this appellate stage. The amendment sought would also change the cause of action of the suit and would adversely affect the right, title and interest of the appellants/defendants over the suit land. If the amendment sought is allowed, the written statement filed by the defendants will stand nullified. Civil law does not permit such amendment in the plaint at the appellate stage. The eviction suit of the respondents/plaintiffs, Eviction Suit No. 1/97, dated 29.11.2017 was dismissed in favour of the appellant and Eviction Appeal No. 3/2008 was also dismissed in favour of the appellants/defendants on 12.08.2008 and S.A. No. 3860/2008 was also dismissed by the Hon'ble High Court of Patna on 08.11.2010 in favour of the appellant/defendants and against the respondents/plaintiffs, which becomes final and binding on the parties concerned and in such circumstances, the petition for amendment of plaint is liable to be dismissed.

4. Heard both sides and perused the record. From perusal of the record of appeal as well as the record of original Title Suit No. 12/2010, the learned advocate for the respondents/plaintiffs moved an application to amend the "prayer clause" of Relief No. (b), stating that it is a merely a typographical error in the plaint and the proposed amendment is innocuous and it will not change the nature of the case and no prejudice shall be caused to appellants/defendants in any manner. The appellants/defendants filed reply to the application whereby strongly opposing the application moved by the respondents/plaintiffs to amend the plaint under Order VI Rule 17, stating that the trial of the Title Suit No. 12/2010 was concluded on the basis of pleadings of the parties, all the evidences were concluded on the basis of pleadings and at the stage of appeal if amendment is allowed it will change the cause of action of the suit and appellants/defendants shall be prejudiced the right, title and interest over the suit land. If amendment is allowed accordingly appellants/defendants will also have to file a written amendment application, which will nullify the stand of respondents. Further civil law does not permit such amendment at appellate stage. Before deciding the petition let go through the provision of Order VI Rule 17 –

Under Order VI Rule 17 - “The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just,

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06.06.2025 and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

5. After going through the provision of Order VI Rule 17, there is proviso in Order VI Rule 17 that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial. As this appeal is filed against the judgment dated 05.04.2013 and decree dated 18.04.2013 passed by the Court of Civil Judge, Junior Division, Sheikhpura. The title suit was filed in the year 2010 and the same was decided in the year 2013, almost three years time taken by the Ld. Trial Court to decide the title suit, in which the respondents/plaintiffs of this petition, who were plaintiffs in the title suit and are respondents in this appeal got ample opportunity to do the necessary correction if it was typographical error in the "prayer clause". Further all the evidences filed by the appellants/defendants are also having the same fact reiterated by the respondents/plaintiffs, hence it could not be said that respondents/plaintiffs were not having knowledge regarding any amendment required in their plaint. Further this appeal was filed in the year 2013. After giving thoughtful consideration this appeal was drafted and filed and suddenly in the year 2019 this amendment application was moved, which shows that this application has been moved by the respondents/plaintiffs to delay the disposal of this appeal. As all the parties including their advocates having full knowledge of the "prayer clause" and just to delay the disposal of this appeal this application has been filed, which is against the rules provided in Order VI Rule 17, further this appeal is pending for disposal from last more than 12 years. Considering the above facts and circumstances, **the petition for amendment in plaint dated 14.06.2019 filed on behalf of respondents/plaintiffs is hereby dismissed.**

Put up on 04.07.2025 for further proceeding.

Dictated

Principal District Judge
Sheikhpura
06.06.2025