
(1984) 10 PAT CK 0011
In the Patna High Court
Case No : Civil Revision No. 210 of 1980 (R)

Jainul Abdin

APPELLANT

Vs

Bibi Nisha Khatoon

RESPONDENT

Date of Decision : 23-10-1984

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 18

Citation : (1984) 32 BLJR 175

Hon'ble Judges : S.J. Hyder, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.J. Hyder, J.—This revision is directed against an order passed by the Subordinate Judge, Giridih on April 22, 1980. It appears that the plaintiff, opposite party applied for amendment of the plaint. The said application was allowed by the Court by its order dated May 3, 1979. The plaintiff did not amend the plaint within the time enjoined under Rule 18 of Order VI of the CPC thereupon the defendant petitioner moved an application on April 17, 1980 stating therein that the plaintiff opposite party was estopped from amending the plaint.

2. The application was decided by Subordinate Judge by his order, dated April 22, 1980 which is impugned in this application. For some reasons he was of the view that it was for the office of the Court to have amended the plaint and that the plaintiff opposite party could not be penalised for any mistake committed by the office. He accordingly rejected the application moved by the defendant petitioner by its order dated April 22, 1980.

3. The law on the point is clear. It is for a party to amend in his pleadings. He cannot do so if the time prescribed by Rule 18 of Order VI of the CPC has expired unless leave is granted to him to incorporate the amendment by a subsequent order passed (sic) by the Court. In so far as the amendments in the pleadings

are concerned the office does not come in the picture at all The reasons assigned by the Subordinate Judge for his order dated April 22, 1980 are wholly unsustainable it is, however, made clear that it is for the office to give effect to an order passed under Order XXII of the Code of Civil Procedure.

4. The matter, however is one of pure technicality. Time has been fixed by Rule 18 of Order VI of the Code of Civil Procedure. for incorporating amendments. Such time is fixed for amendment of pleadings for the expeditious disposal of a suit I do not think it would be proper to deprive the plaintiff opposite party of the benefit of amending the plaint in terms of orders passed by both trial Court on May 5, 1979. As a special case he may amend the plaint in terms of the said order by incorporating the material which he has been allowed to add or change. However the conduct of the plaintiff opposite party has resulted in unnecessary delay in the disposal of the suit and the plaintiff opposite party must pay costs to the defendant-petitioner.

5. The result is that this revision succeeds and the order of the Subordinate Judge, dated April 22, 1980 recorded in the Suit No. 20 of 1978 is hereby set aside. The plaintiff opposite party shall pay costs of Rs. 100/- of this revision to Mr. A. Sahai, learned Counsel appearing for the defendant petitioner. In case the costs are paid within one month from today the plaintiff opposite party shall incorporate the amendments in the plaint as directed by the Subordinate Judge by his order dated May 5, 1979 within one and half months from today The record of the trial Court shall be sent to the said Court at an early date.