
(1925) 03 PAT CK 0031
In the Patna High Court

Rajkishore Lal Nand Keolyar and Others

APPELLANT

Vs

Alam Ara Begum and Another

RESPONDENT

Date of Decision : 23-03-1925

Acts Referred:

Limitation Act, 1963 — Section 22(2)

Citation : AIR 1926 Patna 28

Hon'ble Judges : Adami, J

Bench : Division Bench

Judgement

Adami, J.—This application is directed against an order of the Munsif, First Court, Gaya, rejecting the application by the petitioners to be made co-plaintiffs in a suit brought by the opposite party No. 1. The opposite party No. 1 sued to recover a sum of money from defendants 1 to 26 on account of certain expenses incurred by her in erecting and maintaining a bandh. It appears that the co-sharer malik of village Lao and of several other villages have to erect bandhs for the purposes of irrigation in those villages. The maliks of village Lao supervise the erection of these bandhs and the other maliks contribute towards the expenses incurred. The suit related to the expenses incurred by the opposite party No. 1 in the years 1329 and 1331. She joined as defendants to the suit defendants 27 to 35, who are co-sharer maliks of Mouza Lao. The present applicants petitioned the lower Court to be changed from co-defendants in the suit to co-plaintiffs.

2. The learned Munsif rejected the application on two grounds: firstly, that if these defendants were made co-plaintiffs, the rule of limitation would come in and the plaintiffs' suit would be barred with regard to the claim for 1329. The second ground was that the addition of these petitioners as co-plaintiffs would raise the value of the suit, beyond the jurisdiction of the Court. Now, with regard to the question of limitation, it is clear from the provisions of Sub-section (2) of Section 22, Lim. Act, that the provisions of Sub-section (1) of the section will not apply where a defendant, who was made such by the plaintiff at the time of the

institution of the suit, is transferred in that suit as a co-plaintiff. Sub-section (2) clearly says that "nothing in Sub-section (1) shall apply to a case ... where a plaintiff is made a defendant or a defendant is made a plaintiff." All that the petitioners have asked in this case is that they being defendants should be made plaintiffs in the suit. Accordingly the Law of Limitation will not bar any portion of the claim.

3. With regard to the other objection raised by the Munsif if the suit after the addition of these petitioners as co-plaintiffs exceeds the valuation which is within the jurisdiction of the Munsif, it will be open to him to return the plaint, after the petitioners have been so added, to the plaintiffs to be presented in the proper Court.

4. The order of the Munsif must be set aside and it is directed that the status of the present petitioners be changed from the category of defendants to that of plaintiffs in the suit.