

Ashok Kumar Modi Vs. Pradip Kumar Goenka and ors

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Court : Jharkhand

Decided On : Sep-17-2012

Appellant : Ashok Kumar Modi

Respondent : Pradip Kumar Goenka and ors

Judgement :

IN THE HIGH COURT OF JHARKHAND,RANCHI. W.P(C) No.878 of 2011 Ashok Kumar Modi .. Petitioner(s) Versus Pradeep Kumar Goenka & Ors..... . .
..Respondent(s) CORAM :- HONBLE MR. JUSTICE P.P.BHATT For the
Petitioner(s) : Mr. R.N.Prasad Mr. Manoj Kumar 3/17.9.2012 The present
petitioner by way of filing this petition under Article 227 of the Constitution of India
has prayed for issuance of an appropriate writ/order/direction for setting aside the
order dated 13.12.2010 passed by the learned Sub-Judge I Dumka in Title
Eviction suit no 10 of 1995 whereby the learned court below has allowed the
application for amendment of the plaint dated 22.11.2010 filed by the respondent
under order VI Rule 17 CPC. Heard the learned counsel appearing for the
petitioner. Perused the impugned order as well as other documents produced with
this petition. It appears that the learned court below vide order dated 13.12.2010
allowed the amendment application moved by the respondent whereby he has
sought amendment in schedule of the plaint as follows :- In place of Holding No.
123 Holding No.- 128/135(New) be substituted by deleting Holding No.123(New).
It appears that at the time of filing of the suit in question a typographical mistake
was committed that is why the application has been filed so as to describe the
correct number of the property in question. On perusal of the application filed by

the respondent before the court below as well as the order passed by the court below it appears that certified copy produced by the respondent clearly indicates that assessment register of Dumka Municipality for the year 1975-76 continued till 1979-80 and thereafter new numbers were given. As per assessment register of ward no. 7 for the year 1986-87 to 1991-92 it was renumbered as 128 .The suit was filed in the year 1995 by mentioning old holding number which was changed 123 subsequently and now it has been described as holding no. 128/135. The learned court below has, after careful consideration of the application made before it, passed an order and thereby allowed the application for amendment as it was formal in nature and thereby no harm or prejudice was likely to be caused to the other side, by allowing the said amendment. But while allowing such amendment application it is necessary to ask the parties to mention the corresponding numbers so as to make the position very clear. Therefore in the amendment which has been allowed by the court below the corresponding number be also incorporated. From perusal of the impugned order this court is of the view that the learned court below has not committed any irregularity or illegality while passing the impugned order. Intervention of this court is not needed at all and accordingly this petition is dismissed. (P.P.Bhatt,J) SD

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