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(2013) 07 JH CK 0103

Jharkhand High Court

Case No: Writ Petition (C) No. 4239 of 2012

Kamala Rewani — APPELLANT

Vs

Sri Tribedni Rewani and Others — RESPONDENT

Date of Decision: July 3, 2013

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: P.P. Bhatt, J

Bench: Single Bench

Advocate: Amit Kumar Das, for the Appellant; Pratiush Lala Advocate, for the Respondent

Final Decision: Allowed

Judgement

P.P. Bhatt, J.

The present petitioner by way of filing this writ petition under Article 227 of the Constitution of India has prayed for quashing the order dated 1.6.2012 (Annexure-3) passed by the learned Civil Judge (Jr. Div.)-II Dhanbad in Title Suit No. 102 of 2000 whereby the learned court below has rejected the petition filed under order VI Rule XVII of CPC by the petitioner for amendment in the prayer portion of the plaint. Heard the learned counsel for the petitioner as well as respondents. Perused the impugned order and other materials placed on record..

2. It appears that amendment, as sought for, is of a formal in nature and it can be considered as consequential relief to the main relief. Therefore, the nature of the suit is not likely to be changed if the same is allowed. It appears that while dealing with the application the learned court below has not properly considered this aspect. There is some delay in filing the application but on perusal of the averments made in the present petition as well as reasons, which have been stated in the application filed before the court below it appears that present writ petition is required to be allowed and thereby the impugned order deserves to be set aside. Accordingly, this petition is allowed and the order dated 1.6.2012 passed by the

learned Civil Judge (Jr. Div.)-II Dhanbad in Title suit no. 102 of 2000 is ordered to be set aside. Let necessary amendment be carried out in the prayer portion of the plaint. Thereafter the respondents be given an opportunity to file additional written statement, if any.