

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18333 of 2014**

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1. Maheshwar Prasad Yadav son of Late Yadunandan Yadav resident of village P.O. and P.S. Beldaur, District – Khagaria .... **Petitioner.**

Versus

1. Suresh Bhagat son of late Lakho Bhagat  
2. Dayanidhi Bhagat son of Sri Suresh Bhagat Both resident of village P.O. and P.S. Beldaur, District-Khagaria.

- (Defendant 1<sup>st</sup> party)-Respondent 1<sup>st</sup> set.

3. Ramdeo Sharma

4. Jatadhari Mandal @ Jaldhari Mandal

5. Jitan Mandal

6. Yogendra Mandal

7. Upendra Mandal

8. Digamber Mandal All respondent no. 3 to 8 are Son of Muso Sharma resident of village P.O. and P.S. Beldaur, District - Khagaria

-(Defendant 2<sup>nd</sup> party)-Respondent 2<sup>nd</sup> set-Respondents.

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**Appearance :**

For the Petitioner/s : Mr. Ashok Kumar

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE V. NATH**

**ORAL JUDGMENT**

2      26-02-2015

Heard the learned senior counsel for the petitioner. With the consent of the learned senior counsel for the petitioner, this application has been heard and is being disposed of at this stage.

The plaintiff in the suit has filed this application under Article 227 of the constitution of India calling in question the order dated 19.08.2014 passed by the court below rejecting the petition dated 05.06.2014 praying for examining one witness who is the vendor of the plaintiff. From the perusal of the impugned order it transpires that the suit has been filed in the year 2004 and

thereafter the hearing of the suit was taken up. The plaintiff started leading evidence and by order dated 15.04.2011 the evidence of the plaintiff was closed. Thereafter the evidence of the contesting defendants also was closed on 09.12.2013. The suit has been posted for argument and even the part argument has also been heard. It also appears from the impugned order that the name of the said witness, which the plaintiff has proposed to examine at this stage, has not been mentioned even in the second witness list enclosed by the plaintiff on 22.09.2008.

After considering the facts and circumstances of the case, the learned court below has concluded that the intention of the plaintiff is only to linger the matter.

The learned senior counsel for the petitioner has submitted that for unavoidable reasons the plaintiff-petitioner could not examine the said witness.

After careful consideration of the facts and circumstances and the submissions, this Court is not inclined to interfere in the impugned order.

The writ application is, accordingly, dismissed.

**(V. Nath, J)**

Nitesh/-

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