

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15191 of 2015

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Sanjay Singh @ Sanjay Kumar Singh

.... Petitioner/s

Versus

Smt. Manju Devi & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramadhar Shekhar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

2 30-11-2015 1. Heard the learned counsel, Mr. Binod Kumar Singh, on behalf of the petitioner.

2. This application under Article 227 of the Constitution of India has been filed by the defendant petitioner against the order dated 25.03.2015 passed by the Sub Judge VII, Siwan wherein in Title Suit No.437 of 1998 and the order dated 19.06.2015 whereby the learned Court below rejected the application filed by the petitioner for examining the witnesses from afresh list and also for recalling the earlier order.

3. The learned counsel, Mr. Binod Kumar Singh, appearing on behalf of the petitioner submitted that for long period, the Court was vacant and that it was transferred to another Court. The transferee Court must cause and adjourned the case of directing the petitioner to produce the witness. The learned counsel further submitted that the witness was present on 02.03.2014 and

examination-in-Chief, affidavit was filed but it was not cross-examined.

4. From perusal of the impugned order, it appears that the Court below has recorded finding that hajiri of the witness was filed at late stage and, therefore, the witness could not be cross-examined and subsequently, from 16.07.2014, 08.08.2014, 05.09.2014, 22.12.2014, 13.01.2015, the petitioner did not produce the witness for cross-examination. The Court below also observed that on different dates for granting adjournments, cost were imposed on the petitioner but the cost was also not paid to the other side and instead of producing the said witness subsequently, a separate list of witness was produced with a permission to examine them, therefore, the Court below considering the conduct of the petitioner has rejected the prayer made by the present petitioner.

5. In view of the above facts, it cannot be said that the Court below has acted without jurisdiction or in a manner not permitted by law. Therefore, I find no merit in this application and the impugned order cannot be interfered with in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Thus, this writ application is dismissed.

Sanjeev/-

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(Mungeshwar Sahoo, J)