

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16364 of 2012

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The Asst. General Manager Uco Bank & Anr

.... Petitioner/s

Versus

Sri Arjun Pandit & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Aditya Sharan

For the Respondent/s : Mr. S.K. Ghoservey.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI
ORAL ORDER

7 10-12-2015

Heard learned counsel for the petitioners and

learned counsel for the respondents.

Vide order dated 2012.2007 petitioner, who figured as defendant before the learned lower court was debarred from filing of written statement on account of laches having at his part and further, the suit has been directed to proceed in terms of Order 8 Rule 10 C.P.C. However, by filing written statement on 27.02.2008 a petition was filed on 22.06.2009 for recalling the order dated 20.12.2007 which has been rejected on 01.04.2010, hence this application.

After perceiving the argument made on behalf of respondents counsel it is apparent that while the petitioner was debarred from filing a written statement the suit could not have allowed to proceed in terms of Order 8 Rule 10 C.P.C in the back ground of the fact that presence of respondent no. 5 was yet

to be on the record. It has been submitted on behalf of the petitioners that defendant no.3 had appeared and filed his written statement on 04.09.2009 which had already been accepted.

In the aforesaid back ground two yard stick should not have been adopted by the learned lower court. However, as admitted by the learned counsel for the petitioner that there happens to be delay at his end in filing the written statement after hearing, setting aside the order impugned and allowing the petition a cost of Rs. 10,000/- is inflicted therefore.

(Aditya Kumar Trivedi, J)

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