

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14070 of 2012

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1. Onkar Nath Dubey Son Of Late Parvati Nath Dubey Resident Of
Bhagwan Das Lane, P.S.: Kotwali, District: Bhagalpur

.... Petitioner/s

Versus

1. Sanjeev Kumar Pandey Son Of Late Kailash Bihari Pandey Resident Of
Bhagwan Das Lane, Marwari Tola, P.S.: Kotwali, District: Bhagalpur
2. Rajeev Kumar Pandey Son Of Late Kailash Bihari Pandey Resident Of
Bhagwan Das Lane, Marwari Tola, P.S.: Kotwali, District: Bhagalpur
3. Ratna Choudhary Wife Of Sri Pretam Choudhary Resident Of Bhagwan
Das Lane, Marwari Tola, P.S.: Kotwali, District: Bhagalpur
4. Ratna Pandey Wife Of Sri Bhaskar Pandey Resident Of Bhagwan Das
Lane, Marwari Tola, P.S.: Kotwali, District: Bhagalpur
5. Most. Ramabati Devi Wife Of Late Sahdeo Prasad And Mother Of Late
Kailash Bihari Pandey Resident Of Bhagwan Das Lane, Marwari Tola, P.S.:
Kotwali, District: Bhagalpur
6. Shailendra Kumar Pandey Son Of Late Subodh Kumar Pandey Resident
Of Bhagwan Das Lane, Marwari Tola, P.S.: Kotwali, District: Bhagalpur
7. Sagar Pandey Son Of Late Subodh Kumar Pandey Resident Of Bhagwan
Das Lane, Marwari Tola, P.S.: Kotwali, District: Bhagalpur
8. Punam Pandey Wife Of Late Vinod Kumar Pandey Resident Of Bhagwan
Das Lane, Marwari Tola, P.S.: Kotwali, District: Bhagalpur
9. Richa Pandey Alias Pipsy Daughter Of Late Vinod Kumar
Pandey,..... Resident Of Bhagwan Das Lane, Marwari
Tola, P.S.: Kotwali, District: Bhagalpur
10. Pallavi Pandey Alias Sony Daughter Of Late Vinod Kumar
Pandey,..... Resident Of Bhagwan Das Lane, Marwari
Tola, P.S.: Kotwali, District: Bhagalpur
11. Pragati Pandey Alias Mony Daughter Of Late Vinod Kumar
Pandey,..... Resident Of Bhagwan Das Lane, Marwari
Tola, P.S.: Kotwali, District: Bhagalpur
12. Prateek Pandey @ Babban Son Of Late Vinod Kumar
Pandey,..... Resident Of Bhagwan Das Lane,
Marwari Tola, P.S.: Kotwali, District: Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ganpati Trivedi-Advocate
For the Respondent/s : Mr. Madan Mohan-Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

08 08-12-2015

Heard learned counsel for the petitioner as well as

learned counsel for the respondents.



At an earlier occasion, Title (Eviction) Suit No.02 of 1996/ 08 of 1999, culminated in its finality against which Civil Revision No.2114 of 2007, was filed and same was allowed vide order dated 12.12.2011 (Annexure-2) whereby and whereunder after setting aside the judgment of the learned lower Court, the matter was remitted with a direction *“the learned counsel appearing on behalf of both the parties have expressed their agreement to cooperate with the hearing of the suit and lead any fresh evidence expeditiously in order to complete the hearing and disposal of the suit within the aforesaid period”*.

In pursuance thereof, the trial commenced before the learned lower Court and when it happens to be term of defendant/ petitioner whereunder petitioner had prayed for recalling of DW-13 as well as to exhibit a document, apart from examination of other DWs which had already taken place. By the order impugned, the learned lower Court refused the same.

Seen the reason assigned by the learned lower Court. It is ridiculous to accede with the opinion of learned lower Court that to recall of a DW, did not come within category of fresh evidence, as remarked under the order passed by this Court in Revision No.2114 of 2007. Accordingly, order impugned is set aside. Petition is allowed, but it is made clear that aforesaid exercise must be completed within two dates and for that,

obligation will be on the defendant-petitioner to take all sorts of precautions, if any, so that the date so fixed should not be allowed to spoil. Furthermore, the litigation happens to be amongst the landlord and tenant and further, the litigation is going on since 1996, on account thereof, the learned lower Court will proceed with the trial on day to day basis and will conclude the same within three months without granting any undue adjournment to either of the parties.

(Aditya Kumar Trivedi, J)

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