

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.719 of 2013

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Mukhia Devi W/O Mohan Prasad R/O Village Nawadih, P.S. Indrapuri (Dehri), Dist. Rohtas Petitioner.

Versus

1. Gupteshwar Prasad Son Of Late Chandrama Lal R/O Village + P.O. Nawadih, P.S. Indrapuri (Dehri), Dist. Rohtas
2. Bindeshwari Prasad Son Of Late Chandrama Lal R/O Village + P.O. Nawadih, P.S. Indrapuri (Dehri), Dist. Rohtas
3. Bhuneshwar Prasad Son Of Late Chandrama Lal R/O Village + P.O. Nawadih, P.S. Indrapuri (Dehri), Dist. Rohtas
4. Anirudh Lal S/O Late Bikrama Lal R/O Village + P.O. Nawadih, P.S. Indrapuri (Dehri), Dist. Rohtas **Respondents.**

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Appearance :

For the Petitioner/s : Mr. Rewti Kant Raman

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

4 13-08-2015

Heard the learned counsel for the parties.

Calling in question the order dated 09.10.2012 by which the prayer of the defendant-petitioner to get some documents marked as exhibit has been rejected, the present application under Article 227 of the Constitution of India has been filed.

The facts are not in dispute that earlier the arguments had been advanced in the suit and the same was posted for judgment on 31.08.2012. On that date the defendant-petitioner filed a petition praying for grant of opportunity to advance argument, after deferring the date for passing of judgment. The said prayer was allowed by the learned court below and the

passing of the judgment was deferred granting the opportunity as prayed to the defendant on payment of cost. However, subsequently on 18.09.2012 the defendant-petitioner filed another petition praying for recall of an earlier order dated 23.11.2006 and to permit her to adduce evidence. By the impugned order dated 09.10.2012 the said prayer has been declined by the learned court below.

By earlier order dated 18.01.2013 the notice was issued to the plaintiff-respondents and further proceeding of the suit was stayed.

Mr.Mahesh Prasad No.-2, the learned counsel appearing for the petitioner, at the outset, has submitted that the prayer of the defendant-petitioner is now confined to mark two documents i.e. khatian of the suit land and two rent receipts in the name of the petitioner as exhibits as those two documents are already on record having been filed before the settlement of the dispute in the suit, on behalf of the defendant-petitioner. It has also been submitted by the learned counsel that no other evidence shall be led except the marking of the above two documents in evidence. The learned counsel has also stated that the intention of the defendant-petitioner is not to delay the disposal of the suit and a time frame may be fixed for the disposal of the suit.



The learned counsel for the plaintiff-respondents on the other hand, has submitted that the defendant-petitioner has been adopting delaying tactics since long back and in the proceeding before this Court also after obtaining the stay order, this writ petition was deliberately allowed to be dismissed for default for non-compliance of the order. It has also been submitted by the learned counsel that the defendant-petitioner even after getting the permission to get the documents marked in evidence would further delay the disposal of the suit by raising some other plea. In nutshell, the submission on behalf of the respondent rests on the plea of delay in the disposal of the suit. It has not been denied that the two documents are already on record, filed on behalf of the defendant-petitioner before the settlement of the issue.

After hearing the parties and considering the facts and circumstances of the case, this Court finds that the dispute in the suit relates to the rights of the parties in the immovable property. As the decision in such suit affects generation to come, it is always desirable that the parties should be given reasonable opportunity to adduce relevant evidence in accordance with law subject to the further condition that no prejudice should be caused to the other side and no undue delay is

caused. In view of the limited submission and prayer on behalf of the petitioner to get only the two documents i.e. khatian of the suit land and two rent receipts in the name of the petitioner which are already on record, marked as exhibits in the suit, this Court finds it just and proper to allow the said prayer but only after compensating the other side by awarding cost and also fix a time frame for completion of the submission by the defendant-petitioner in the suit and for its disposal. As such, the petitioner is allowed to get the above two documents i.e. khatian of the suit land and two rent receipts, which are already on record, marked as exhibits in the suit in accordance with law within a period of four weeks from the date of receipt/production of a copy of this order in the court below by either party with notice to the other side. This order shall be subject to payment of the cost of Rs.5,000/- to the defendant-petitioner which shall be precondition for marking the above documents in evidence. The defendant-petitioner is further directed to complete the argument in the suit within four weeks from the date the above documents are marked as exhibits. The learned counsel for the parties have agreed that they would maintain the above time frame and avoid adjournments as far as possible. The learned court below shall invoke the relevant provision of the Civil Procedure Code for expediting the hearing.

In result, this writ application is allowed with
aforesaid direction and the impugned order is quashed.

(V. Nath, J)

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