

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20192 of 2012

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1. Aruna Devi @ Aruna Saha Wife Of Late Bijay Prakash Sah Resident Of Mohalla Nayatola Bhikhanpur, P.S. Ishakchak (Kotwali), Town And District Bhagalpur

.... Petitioner/s

Versus

1. Nirmala Devi Wife Of Late Mahendra Pd. Gupta Resident Of Mohalla Sujaganj Bazar P.O. Sujaganj, P.S. Kotwali , Town And District Bhagalpur
2. Ajay Kumar Gupta Son Of Late Mahendra Prasad Gupta Resident Of Mohalla Sujaganj Bazar P.O. Sujaganj, P.S. Kotwali , Town And District Bhagalpur
3. Bijay Kumar Gupta Son Of Late Mahendra Prasad Gupta Resident Of Mohalla Sujaganj Bazar P.O. Sujaganj, P.S. Kotwali , Town And District Bhagalpur
4. Raj Kumar Gupta Son Of Late Mahendra Prasad Gupta Resident Of Mohalla Sujaganj Bazar P.O. Sujaganj, P.S. Kotwali , Town And District Bhagalpur
5. Prem Kumar Gupta Son Of Late Mahendra Prasad Gupta Resident Of Mohalla Sujaganj Bazar P.O. Sujaganj, P.S. Kotwali , Town And District Bhagalpur
6. Manoj Kumar Gupta Son Of Late Mahendra Prasad Gupta Resident Of Mohalla Sujaganj Bazar P.O. Sujaganj, P.S. Kotwali , Town And District Bhagalpur
7. Bimla Devi Daughter Of Late Mahendra Prasad Gupta Resident Of Mohalla Sujaganj Bazar P.O. Sujaganj, P.S. Kotwali , Town And District Bhagalpur
8. Sanjiv Kumar Sah Son Of Late Bijay Prakash Sah Resident Of Mohalla Nayatola Bhikhanpur, P.S. Ishakchak (Kotwali), Town And District Bhagalpur
9. Rakesh Kumar Sah Son Of Late Bijay Prakash Sah Resident Of Mohalla Nayatola Bhikhanpur, P.S. Ishakchak (Kotwali), Town And District Bhagalpur
10. Anand Kumar Sah Son Of Late Bijay Prakash Sah Resident Of Mohalla Nayatola Bhikhanpur, P.S. Ishakchak (Kotwali), Town And District Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Manoj Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

2 20-07-2015

Heard the learned counsel for the petitioner.



The petitioner is defendant in the suit filed for eviction. The suit was filed in the year 1983. By order dated 23.04.2010 (Annexure-1) the learned court below has closed the evidence of the defendant-petitioner. Thereafter it appears that the defendant-petitioner has filed a recall petition on 25.11.2011, praying for recall of the order dated 23.04.2010. By order dated 10.12.2011 the petition filed by the defendant was rejected with direction to the defendant to be present for argument on the next day i.e. 17.12.2011. From the records it does not appear that the order sheet after 17.12.2011 has been produced by the petitioner to show the status of the proceeding in the court below. This writ application has been filed on 17.10.2012 challenging the order dated 10.12.2011. It would be seemly to notice here that the order sheet prior to 23.04.2010 has also not been produced in order to support the submission on behalf of the petitioner that there had been no deliberate attempt on behalf of the petitioner to delay the disposal of the suit.

The learned counsel for the petitioner has submitted that the plaintiff-respondent should have been eager to get her suit disposed of but it has not been done so. It has also been urged that a date may be fixed granting opportunity to the defendant-petitioner to lead evidence.

After considering the submissions and the facts of the case, it is pellucid that the suit for eviction filed in the year 1983 has not been disposed of up-till-now. The conduct of the defendant in pursuing the matter is reprehensible inasmuch as the defendant had not shown any eagerness after the closure of her evidence to get the order recalled or approach the higher courts for relief. In this backdrop of facts, this Court is not inclined to exercise its jurisdiction under Article 227 of the Constitution of India in favour of the petitioner.

The writ application is, accordingly, dismissed.

(V. Nath, J)

Nitesh/-

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