

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18740 of 2015

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1. Deo Sharan Prasad Son of Late Raja Mahto
2. Smt. Bindewasni Devi Wife of Deo Sharan Prasad
3. Kaushal Kishore
4. Manish Sharan
5. Kantesh Kumar
6. Prashant Kumar All Petitioner No. 3 to 6 are sons of Deo Sharan Prasad and all Petitioner No. 1 to 6 are resident of village - Sumera, P.S. Makhdumpur, District - Jehanabad at Present residing in front of the Main Gate of Magadh University, Bodh Gaya, P.S. Bodh Gaya, District - Gaya

.... Petitioner/s

Versus

1. The State of Bihar through Collector Gaya
2. Anchal Adhikari, Bodh Gaya, Distt. Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailesh Kumar

For the Respondent/s : Mr. Ga2-Prasoon Sinha

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

2 29-06-2016 Heard learned counsel Mr. Shailesh Kumar for the petitioners and the learned A.C to G.A-2 on behalf of the respondents.

Perused the impugned order dated 24.06.2015 passed by Sub-Judge 1st, Gaya in Title Suit No. 441 of 2008 whereby the court below has rejected the application filed by the plaintiff-petitioner to mark the notice under Section 80 issued in favour to the respondent-State and the Power of Attorney and Postal Receipt.

Learned counsel for the petitioners submitted that in

the plaint the petitioner has specifically pleaded that the notices were sent to the State under Section 80. No written statement has been filed by the State-respondent. In fact, therefore, there is no pleading on behalf of the State nor there is any reason and accordingly the petitioners filed application for marking the aforesaid documents as exhibits which were already filed earlier in the year 2013.

From perusal of the impugned order it appears that the court below has rejected the application only on the ground of delay awarding cost. In my opinion only on the ground of delay the application could not have been rejected by the court below. According to me, the court below has refused to exercise its jurisdiction vested in it by law. The court has jurisdiction to adduce evidences if the evidences are necessary for just decision of the case between the parties as has been held by the Hon'ble Supreme Court in the case of K.K. Velusamy Vs. M.Palanisamy case 2011(11) S.C.C. 275. The Hon'ble Supreme Court has held that in appropriate cases the court can exercise its inherent jurisdiction under Section 151 C.P.C and can receive the evidence even after the hearing is concluded and the case has been posted for judgment. In my opinion therefore, if the order is allowed to stand, it will occasions failure of justice and shall lead to

multiplicity of the proceeding and thereby the petitioners shall be prejudiced. Further the court below has refused to exercise jurisdiction vested in it by law. Accordingly, the impugned order is set aside and the application is hereby allowed. The Court below is directed to mark the said documents as exhibits.

(Mungeshwar Sahoo, J)

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