

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15211 of 2014

=====

Md. Ashfaque Alam S/o Seikh Allaudin, R/o Village- Adampur, P.S.- K. Nagar,
P.O.- Parora, District- Purnea Petitioner

Versus

1. Sri Vipin Bihari Jaipuriyar S/o Sri Vindhya Vasini Prasad, R/o Mohalla- Amla
Tola, P.S.- K. hat, P.O.- District- Purnia

2. Md. Munowar Ali, S/o Md. Noor Alam, R/o Village- Adampur, Mugal Toli,
P.S.- K. Nagar, P.O.- Parora, District- Purnea Respondents

=====

Appearance :

For the Petitioner/s : Mr. Anil Kumar Saxena
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 25-10-2016

Heard the learned counsel for the petitioner.

By the impugned order the learned court below has
turned down the prayer on behalf of the petitioner for recall of the
order dated 22.11.2013 by which the evidence of the defendant has
been closed.

From the perusal of the materials on record as well
as the impugned order, it is evident that the eviction suit has been
filed against the defendant in the year 1997. It further transpires that
earlier the evidence of the defendant was closed by order dated
22.02.2013 but the said order was recalled later on with direction to
conclude their evidence within three days. As the said direction was
not complied, again the evidence of the defendant was closed and



again a petition for recall was filed by the defendant and allowed with direction to the defendant to conclude the evidence within four days. The defendant failed to comply the direction and did not produce any evidence within four days as directed and thereafter the order dated 22.11.2013 was passed closing the evidence of the defendant. The defendant-petitioner thereafter filed the petition that as his father-in-law died therefore he could not lead the evidence. The learned court below after considering the facts and circumstances of the case has rejected the prayer on behalf of the defendant as made.

The learned counsel for the petitioner has submitted that a last opportunity should be granted to the petitioner to lead evidence.

In the background of the facts disclosing the conduct of the defendant in a suit for eviction which has been filed in the year 1997, this Court is not inclined to interdict the impugned order. It is well settled that a litigant is not to pursue the litigation at his leisure or pleasure. The fact remains that the father-in-law of the defendant as alleged is dead but that death must have taken place on one date and there is no explanation by the defendant as to why he did not lead evidence on any previous dates.

Accordingly, this application has no merit and is dismissed.



The learned court below is directed to proceed with the suit and dispose it of expeditiously in accordance with law.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.12.2016
Transmission Date	

