

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7642 of 2013

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1. Shivjee Hajra S/O Late Ram Lagan Paswan R/O Village- Hasanpur Surat,
P.S.- Patory, District- Samastipur

.... Petitioner/s

Versus

1. Nandu Paswan S/O Late Faguni Paswan R/O Village- Hasanpur Surat,
P.S.- Patory, District- Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Zeyaul Hoda, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 28-03-2016

Heard learned counsel for the petitioner.

2. Title Appeal No. 51/2006 has been filed at the end of petitioner against judgment dated 24.05.2006 and decree dated 09.06.2006 passed in Title Suit No. 07/2005.

3. During continuance of the aforesaid Title Appeal, a petition has been filed on behalf of petitioner on 10.01.2011 under Order XLI Rule 27 of the CPC asking for the learned appellate court to admit certified copy of *Khesra Panji* in accordance with Order XLI Rule 27 (1) (aa) of the CPC.

4. In order to substantiate its claim, learned counsel for the petitioner submits that neither petitioner was knowing with regard to creation of *Khesra Panji* nor he had properly been instructed by his conducting Advocate. Petitioner being rustic/ignorant of law failed to take appropriate steps at



proper stage. It has also been submitted that learned appellate court had rejected the prayer on the ground that neither any explanation has been offered at the end of petitioner, side by side, if the prayer is allowed, the respondent will have no opportunity to rebut. In order to meet the aforesaid finding recorded by the learned appellate court, it has been submitted that it was within the domain of learned appellate court whereunder an opportunity would have been given to the adversary in order to rebut.

5. Furthermore, it has also been submitted that there happens to be appropriate explanation at the end of petitioner which, the learned appellate court should have considered.

6. Civil Suit, virtually, being sailed in luxurious manner covering so many generations and to curtail the same and further to guard, certain amendments, check and balance have been introduced only to awaken the parties to be vigilant to defend their rights properly so that, proceeding should end within reasonable time. From the explanation, as is evident from Annexure-2, is not at all convincing at least on the score prohibiting the petitioner in getting the document at an appropriate stage or, could not get even after due diligence.

7. Moreover, inefficiency of learned counsel as posed, is not going to help the petitioner because of the fact that he

engaged such learned counsel on his own risk.

8. Consequent thereupon, the instant petition is found devoid of merit and is, accordingly, rejected.

9. However, the learned appellate court would see whether the document in question could be taken up under Sub Rule-(b) to do substantial justice and if so, the order impugned will not come in the way.

(Aditya Kumar Trivedi, J)

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