

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21132 of 2012

=====

Nitya Nand Mishra S/O Late Ram Dayal Mishra Resident Of Village -
Udhura, P.S. Brahampur, District - Buxar, Present Address : Mohalla -
Menlebagh, P.O. Ara, P.S. Nawada (Arrah), Distt. Bhojpur (Ara)

.... Petitioner/s

Versus

1. Shail Devi W/O Late Dineshwar Pd. Rai Resident Of Village -
Deochanda, Piro, Distt. Bhojpur
2. Achyutanand Mishra S/O Ram Dayal Mishra
3. Binod Mishra S/O Achyutanand Mishra
4. Pramod Mishra S/O Achyutanand Mishra
5. Smt. Shanti Devi W/O Achyutanand Mishra

.... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Sandeep Kumar, Adv.
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 08-04-2016 Heard learned counsel for the petitioner.

Petitioner is aggrieved by an order dated 14.08.2012
passed by Sub-Judge-VIth, Ara, Bhojpur relating to Title suit
No.105 of 1979 whereby and whereunder he had allowed the three
Saving Passbooks, document issued by post office as well as
judgment and decree of M.S. No.73 of 1975.

To substantiate such plea, it has been submitted that
case of the party had already been closed on 21.01.1994.
Therefore, the documents which ever been marked as an exhibit
by the order impugned should not have been done by the learned
lower court. To substantiate such plea, learned counsel for the

petitioner relied upon ***Suresh Yadav Vs. Ramchandra Yadav*** reported in ***2005(4) PLJR 87***.

Learned counsel for the petitioner admits that the case of the party was closed on 27.01.1994. From the order impugned, it is evident that first petition on behalf of defendant with regard to exhibit of the document was filed on 27.08.1981 over which, no order was passed by the learned lower court. Subsequently thereof, another petition was filed on 20.09.2006 followed 24.05.2007 and then 18.07.2012. So, certainly the first petition was filed on the day while the opportunity was still available. The learned lower court should have heard over the petition dated 27.08.1981 and in likewise manner had it disposed of. Keeping the petition pending for such long period is not the fault of the party rather happens to be fault of the court and for which, parties cannot be penalized.

Accordingly, the judgment so referred by the learned counsel for the petitioner is not at all applicable in the facts and circumstances of the case.

Instant petition is rejected.

(Aditya Kumar Trivedi, J)

PN/-

U			
---	--	--	--