

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9154 of 2014

- =====
1. Rajendra Prasad Sah son of Late Rameshwar Prasad Sah
 2. Smt. Lakshmi Devi wife of Rajendra Prasad Sah Residents of Ward No. 12,
Mohalla : Jhakrah, P.O. , P.S. AND District - Supaul.

.... Petitioner/s

Versus

1. Rama Devi widow of Late Shivendra Prasad Gupta
2. Sanjeev Kumar Gupta son of Late Shivendra Prasad Gupta
3. Tulsi Kumari daughter of Late Shivendra Prasad Gupta All residents of Ward
No. 5 (old), Mohalla : South Hatcola Road, P.O., P.S. AND District : Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Nath Verma

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 03-05-2016

Heard the learned counsel for the petitioners.

Calling in question the legal sustainability of the impugned order refusing the prayer on behalf of the plaintiff-petitioners to recall the defendants witness no. 10 for cross-examination, the present application under Article 227 of the Constitution of India has been filed.

From the perusal of the impugned order, it appears that the learned court below has elaborately examined the matter and has found that the plaintiff-petitioners have been making attempts to defer the cross-examination of the handwriting expert produced as D.W.-10

in the suit. The learned court below has also found that the plaintiff-petitioners have wrongly made the statements in the petition that on 11.09.2013 the working of the court did not start in the first hour and their counsel was absent on that date.

The suit is for eviction and has been filed in the year 2000. After the amendment in the C.P.C., the scope to recall of the witness of the cross-examination has been substantially circumscribed.

After perusal of the impugned order, this Court does not find that any illegality or material irregularity has been committed by the learned court below. During the course of submission also this Court has not been persuaded to take the view that the impugned order is perverse or unreasonable in any manner. This Court, therefore, is not inclined to interfere with the impugned order.

The present application is, accordingly dismissed.

However, the petitioners shall be at liberty to raise the objection to the impugned order, in appeal, in accordance with the provision of Section 105 (1) C.P.C, if such occasion arises.

(V. Nath, J)

Devendra/-

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