

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9110 of 2014

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Nuneshwar Mahto son of Late Gobardhan Mahto resident of village - Gangaraidih,
Post office and Police Station - Chakai, District - Jamui

.... Petitioner/s

Versus

1. Amir Mahto
2. Benga Mahto Both son of Bittu Mahto
3. Kunwa Devi @ Sanri Devi wife of Late Bittu Mahto All resident of village -
Gangaraidih, Post office and Police Station - Chakai, District - Jamui
4. Jhalki Devi wife of Baldeo Yadav resident of village - Kaliyasi, Post office
and Police Station - Deori, District - Giridhi (Jharkhand)
5. Saroj Devi wife of Ganauri Yadav resident of village - Sojhana, Post office
and Police Station - Jhajha, District - Jamui
6. Rajendra Mahto son of Late Gobardhan Mahto
7. Yugal Mahto son of Late Abhiram Mahto
8. Tipan Mahto son of Yugal Mahto
9. Suro Mahto son of Yugal Mahto
10. Ganga Devi @ Girija Devi wife of Late Gobardhan Mahto All resident of
village - Gangaraidih, Post office and Police Station - Chakai, District - Jamui
11. Chinta Devi daughter of Gobardhan Mahto, wife of Puno Yadav resident of
village - Rangesiya, Post Office - Bich Kodwa, Police Station - Chakai, District
- Jamui
12. Purn Mahto son of Loko Mahto resident of village - Gangaraidih, Post office
and Police Station - Chakai, District - Jamui

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akhauri Kamal Kishore Sahay, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 13-05-2016

Heard learned counsel for the petitioner.

Questioning the legal sustainability of the impugned order by which the learned court below has accepted some documentary evidence adduced on behalf of the defendants in the suit, the plaintiff has filed the present application under Article 227 of the Constitution of India praying for quashing the said order.

Learned counsel for the petitioner has submitted that those documentary evidence have been brought on record at the stage when the argument in the suit was on the verge of completion. It has been canvassed that those documents if accepted in evidence would change the entire nature of the suit. Learned counsel for the petitioner, however, has accepted that the court has the jurisdiction to accept the said document in evidence and has also further accepted that the plaintiff has been granted the liberty to rebut the said evidence.

After perusal of the impugned order and the materials on record, it is evident that the learned court below has accepted some documentary evidence at the stage when the argument in the suit was going on and nearing completion. The impugned order however also reveals that the opportunity of rebuttal has been granted by the learned court below to the other side while passing the impugned order. On behalf of the petitioner, no law or precedent could be cited which restricts the discretion of a court to admit evidence in a suit during its pendency. The prescribed procedure governing the proceeding of a

suit is primarily meant for complete and effective adjudication of the dispute between the parties. The discretion as exercised by the learned court below in allowing some documentary evidence to be adduced after granting opportunity to the other side for rebuttal does not appear to be unreasonable or perverse in any manner. The submission on behalf of the petitioner that the documentary evidence if allowed to be brought in evidence, would change the nature of the suit is clearly misconceived.

The present application is therefore held to have no merit and is, accordingly, dismissed.

Devendra/-

(V. Nath, J)

AFR/NAFR	
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