

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12979 of 2014

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1. Nitu Devi W/o Sanjeev Kumar Pandey @ Gautam Pandey D/O Late Sudarshan Pathak Resident of Village- Sinduari, P.S.- Konch, District- Gaya at presently residing at Village- Teldiha, P.S.- Madanpur, District- Aurangabad

.... Petitioner/s

Versus

1. Usha Devi, W/o Dinesh Kumar Mishra, Resident of Village- Pogar, P.S.- Rafiganj, District- Aurangabad

2. Anand Kumar Pathak, S/o Madan Mohan Pathak, Resident of village- Sinduari, P.S.- Konch, District- Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Sinha, Adv

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 08-09-2016

Heard learned counsel for the petitioner.

The plaintiff-petitioner is aggrieved by the order by which the learned court below has allowed the prayer of the defendants for recall of the order debarring her from filing the written statement and for accepting her written statement filed in the suit.

Learned counsel for the petitioner has submitted that the learned court below has not acted in accordance with law in allowing the said prayer for recalling its earlier order debarring the said respondents from filing written statement. It has also been

submitted that the learned court below imposed some cost upon the defendants.

After considering the submissions and averments made in the application, it is evident that the suit has been filed for declaration of right, title and interest over the suit property though it is apparent that the defendants had committed delay in filing the written statement in the suit but after the prayer on behalf of the defendants for recall of the order debarring him from filing written statement has been allowed and her written statement thereafter has been accepted, this Court does not find that any prejudice will be caused to the plaintiff-petitioner.

In any view of the matter, the consequence of the impugned order is only that now the suit would be decided after contest by the defendant petitioner no. 2, and on merits and not ex parte.

In this background this court is not inclined to invoke its jurisdiction under Article 227 of the Constitution of India.

The application is, accordingly, dismissed.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
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