

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9209 of 2013

=====

Shanti Devi & Ors

.... Petitioner/s

Versus

Kamruddin Ansari

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Binay Kumar Pandey--Advocate

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 21-06-2016

Heard learned counsel for the petitioners.

Gone though the order impugned.

Petitioners are aggrieved by an order dated 04.03.2013 passed by Munsif-IIInd, Siwan whereby and whereunder Misc. Case No.11 of 2010 in terms of Order-IX, Rule-13 of the C.P.C. filed on behalf of respondent/ defendant has been allowed.

Learned counsel for the petitioners has raised so many grounds to challenge the order impugned. The first and foremost happens to be that instead of admitting that there was gazette notification, on superficial grounds that respondent/ defendant happens to be a semi-literate and poor peasant, accepted the explanation. In likewise manner, it has also been submitted that though no petition under Section 5 of the Limitation Act has been filed, the learned lower Court had incorporated in his order

that same has been filed and delay has been condoned in the aforesaid background. To substantiate the same, no Annexure has been annexed much less the first order sheet of Misc. Case No.11 of 2010, which would have disclosed the actual affair. Mere submission, without supported with authentic document will not yield in favour.

Now, coming to the merit of the case, it is evident that learned lower Court had discussed the evidence of the witnesses in detail and the aforesaid event has not been questioned at the end of petitioner in its finding. Moreover, for deciding the lis, presence of parties in a suit is necessary. Apart from this, while allowing the Misc. Case, petitioners have adequately been compensated. Consequent thereupon, did not see proper ground to interfere with the order impugned.

Accordingly, instant petition lacks merit and is rejected.

(Aditya Kumar Trivedi, J)

Vikash/-

U			
---	--	--	--