

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17486 of 2015

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Smt. Bhawna Bhardwaj

.... Petitioner/s

Versus

Deepak Kumar Sinha & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

4 01-02-2016

Heard learned counsel Mr. J.S. Arora on behalf of the petitioner and the learned counsel Mr. Radha Mohan Pandey, on behalf of the respondent No.3.

This application under Article 227 of the Constitution of India has been filed by the plaintiff-petitioner for setting aside the order dated 31.08.2015 passed in Title Suit No. 176 of 2008 by Sub-Judge IV, Patna whereby the learned Court below recalled the earlier order and allowed the defendant No.3 to examine five witnesses within five conjugative dates.

It appears that the plaintiff-petitioner filed aforesaid Title Suit for specific performance of contract. The original defendant filed contesting written statement. Subsequently the defendant No.3 and defendant No.4 has added as party in the suit. The defendant No.4 disclosed that he is not related in any way with the suit property, as he is only a tenant, so his name was



deleted. So far the defendant No.3 is concerned; his case was earlier closed in 2013 on petition filed by her. The defendant No.4 was directed to lead evidence after closure of her evidence. The defendant No.4 was directed to produce evidence. Since the name of defendant No.4 was deleted, the defendant no.3 filed an application for recall of the order whereby her evidence was closed. Thereafter, considering the case of both the parties and submissions made by the learned counsels for both the parties by the impugned order, the Court below has directed that in the ends of justice it is necessary to reopen the case of the defendant No.3 and because there is delay the Court below also granted cost of Rs. 2,000/-.

From perusal of the order, it appears that the Court below has exercised inherent jurisdiction under Section 151 C.P.C.

The Hon'ble Supreme Court in the Case of ***K.K. Velusamy Vrs. N. Palanisamy (2011) 11 SCC 275*** has held that the Court in appropriate cases can exercise its discretion to permit reopening of evidence and/or recalling of witnesses for further examination/ cross-examination after evidence led by the parties is concluded and arguments have commenced or even when arguments have concluded and case has been reserved for judgment, as there is no provision in this regard in C.P.C after

deletion of Order 18 rule 17-A C.P.C.

Now, therefore, when the Court below has exercised this inherent jurisdiction under Section 151 C.P.C., it cannot be said that the Court below has no jurisdiction and that the same has occasioned any failure of justice. In such view of the matter, order passed by the court below cannot be interfered with in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

In the result, this application is dismissed.

(Mungeshwar Sahoo, J)

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