

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5663 of 2015

- =====
1. Kailash Yadav @ Kailash Prasad Yadav
 2. Balram Yadav.
 3. Vijay Yadav @ Vijay Kumar Yadav.

All sons of Late Arun Yadav, Resident of Village-Halimpur, P.S.Naya Ram Nagar, District-Munger.

.... Petitioners

Versus

1. Vidyanand Yadav S/o Rameshwar Yadav.
2. Sikandar Yadav S/o Rameshwar Yadav.
3. Ajay Yadav S/o Rameshwar Yadav.

All are resident of Village-Halimpur, P.S.Naya Ram Nagar, District-Munger.

4. Most Ruma Devi, W/o Late Bilo Yadav @ Dilip Yadav, Resident of Village+PS. Akbar Nagar, District Bhagalpur.

5. Maya Devi, D/o Late Punai Pandit.

6. Sunita Devi, D/o Late Punai Pandit.

7. Jagdish Pandit, S/o Late Punai Pandit.

8. Umesh Pandit, S/o Late Punai Pandit.

9. Ramdas Pandit S/o Late Punai Pandit.

Respondents No. 5 to 9 resident of Village-Gauripur, P.O.-Safiabad, P.S. Naya Ram Nagar, District-Munger.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO

ORAL ORDER

2 29-03-2016

Heard Mr. Alok Kumar, learned counsel for the petitioners.

By the Order dated 23.01.2015, the Additional Munsif-IIIrd, Munger has only recalled A.W-1 for further examination in Misc. Case No. 01/2012. It may be mentioned here that the Suit was dismissed for default and thereafter, the plaintiff-respondents have filed this Misc. Case for restoration of

the said Title Suit No. 104/1994.

In this Misc. Case A.W-1 was examined earlier and by the impugned order, the Court below allowed the application and recalled A.W-1 for further examination on the ground mentioned by the plaintiff. The only grievance of the petitioners is that the same prayer was rejected earlier and it is therefore barred by *res judicata*. It may be mentioned here that this question about *res judicata* was not pleaded before the Court below and therefore, the impugned order does not show anything. In such view of the matter, this Court cannot go into the facts of the case. Further even if earlier rejection was there then also the Court has inherent jurisdiction to recall and re-examine any witness for the ends of justice, which has been done here.

In such view of the matter, I do not find any reason to interfere with the impugned order in exercise of supervisory jurisdiction.

Accordingly, this application is dismissed.

(Mungeshwar Sahoo, J)

Mishra/-

U			
---	--	--	--