

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5641 of 2012

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Chhabila Prasad Yadav & Ors

.... Petitioner/s

Versus

Devendra Yadav & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma-Advocate

Mr. Arun Kumar Lal--Advocate

For the Respondent/s : Mr. Ratna Deep Prasad-Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

10 25-04-2016

Heard learned counsel for the petitioners as well as
learned counsel for the respondents.

Petitioners are the defendants. While sailing with
Title Suit No.64 of 1997 pending before the Subordinate Judge-1st,
Vaishali at Hajipur, due to slackness on the part of the respondent
1st set/ plaintiffs, their plea was not duly substantiated. Later on,
the original plaintiff, Chandradeep Rai died and on account
thereof, his sons (respondent 1st set) were substituted with a
limited right against which they preferred Civil Revision No.1368
of 2008 and the same was disposed of vide order dated 29.08.2008
(Annexure-1) whereunder an opportunity was allowed in their
favour permitting examination of witnesses as well as getting the
documents exhibited at a cost of Rs.8,000/-. The aforesaid
exercise was to be completed within six months. The aforesaid
order was passed in absence of petitioners/ defendants having no

opportunity to rebut. It is also evident that aforesaid order has been brought under Civil Review No.318 of 2008 at the end of the petitioners and the same was disposed of.

Learned counsel for the petitioners submits that mistakably, the prayer to grant an opportunity for rebuttal was not made in the review petition, therefore, the aforesaid opportunity which happens to be the mandate of law, should be given in favour of petitioners/ defendants. It has also been submitted that aforesaid review was dismissed in default and not on merit.

Judgment of Coordinate Bench should not ordinarily be interfered with unless and until there happens to be adoption of proper channel duly identified under eye of law. That being so, petitioners are at liberty to seek proper remedy in accordance with law relating to Annexure-1.

With the aforesaid observation, instant petition is disposed of.

(Aditya Kumar Trivedi, J)

Vikash/-

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