

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13223 of 2014

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1. Chandra Shekhar Kumar Son of Ram Pravesh Pandey resident of Village- Pandey Patti, P.S.- Buxar, District- Buxar.
 2. Shivaji Rai Son of Ram Rekha Rai resident of Village- Badhaka Nuawav, P.S.- Buxar(M), District- Buxar.
 3. Raj Narayan Rai @ Raj Narayan Sharma Son of Ram Pravesh Rai
 4. Mithilesh Rai Son of Ramashankar Rai Petitioner No. 3 and 4 are resident of Village- Diyaman, P.S.- Krishna Braham, District- Buxar.

.... Petitioner/s

Versus

1. Priyanka Kumari Daughter of Late Brijmohan Rai resident of Village- Badhaka Nuawav, P.S.- Buxar (M) District- Buxar.
2. Mostt. Sushila Devi wife of Late Brijmohan Rai
3. Krishna Mohan Rai Son of Late Sahadeo Rai Both are resident of Village Badhaka Niawav, P.S.- Buxar (M), District- Buxar.
4. Fanish Kumar Son of Ragani Devi (Divorce of Late Brij Mohan Rai) resident of Village- Manikpur, P.S.- Saraiya, District- Muzaffarpur, Present address- Village Badhaka Nuawav, P.S. Buxar (M), District- Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rang Nath Choubey, Adv
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 21-09-2016

Heard Mr. Rang Nath Choubey, learned counsel for the
petitioners.

The defendants 3rd Set in the suit are the petitioners in

this application and have questioned the legal sustainability of the impugned order by which the learned court below has turned down the prayer of the petitioners for recall of the order dated 13.09.2012 by which their evidence was closed.

From the impugned order, it transpires that the argument on behalf of the defendant 1st Set has been over and at that stage the objection was filed by the defendants 3rd Set for recall of the order by which their evidence was closed. Learned counsel for the petitioners has pointed out and placed the petition filed by the petitioners which is Annexure-5 to the present application to persuade this Court to take the view that necessity for recall of the order dated 13.09.2012 arose when the petitioners obtained the certified copy of the examination-in-chief of the defendant no. 4. It has, however, been not stated in the petition (Annexure-5) as to when the certified copy of the examination-in-chief was obtained. It has further also not been averred in the said petition that the petitioners were not present when the defendant no. 4 was being examined as a witness in the suit.

After considering the submissions and the facts and circumstances of the case, this Court is not inclined to interfere with the impugned order invoking its jurisdiction under Article 227 of the Constitution of India.

The application is, accordingly, dismissed.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30.11.16
Transmission Date	N.A.

