

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9296 of 2014

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Raj Roshan Devi Wife of Brajesh Narayan Mishra Resident of village- Bela, P.S.-
Ara Muffasil, District- Bhojpur

.... Petitioner.

Versus

1. Bhikhari Rai, Son of Ram Rekha Yadav,
2. Badri Narayan Singh, Son of Bhikhari Singh
3. Vikash Kumar Singh Son of Bhikhari Singh
4. Kedar Nath Rai, Son of Bhikhari Rai All are resident of village- Bela, P.S.- Ara
Muffasil, District- Bhojpur
5. Harendra Mishra
6. Deo Prasad Mishra Both are sons of Late Ram Niwas Mishra,
7. Daya Shankar Mishra,
8. Ravi Mishra,
9. Manoj Mishra
10. Santosh Mishra, All respondent no. 7, 8, 9 and 10 are sons of Late Kishun
Prasad Mishra, All are resident of village- Bela, P.S.- Ara Muffasil, District-
Bhojpur
11. Sushil Kumar,
12. Pawan Mishra
13. Sohan Mishra
14. Uma Shankar Mishra
15. Ghanshyam Mishra All 11, 12, 13, 14 and sons of Chandradeo Mishra, All are
resident of village- Bela, P.S.- Ara Muffasil, District- Bhojpur

.... Respondents.

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Appearance :

For the Petitioner/s : Mr. Gopal Govind Mishra
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 09-05-2016

V.Nath, J.

Heard Mr. Mishra, learned counsel appearing on
behalf of the petitioner.

The legal sustainability of the impugned order by
which the evidence of the defendant-petitioner has been closed, has
been questioned in this application under Article 227 of the

Constitution of India.



The materials on record and the submission on behalf of the petitioner demonstrate that the suit was filed in the year 2006 and thereafter a pleader commissioner was appointed for recording the deposition of the present petitioner. As there was a dispute with regard to place of examination of the witness the pleader commissioner has submitted his report on 11.01.2012 pointing out the aforesaid fact. It does not appear from the present application or during the course of submission that any step thereafter was taken by the petitioner in the suit either by praying for appointment of pleader commissioner or for adducing evidence. When the evidence of the petitioner was closed on 06.08.2013 only thereafter the petitioner filed the petition on 09.09.2013 for recall of the said order and grant of opportunity to the defendant for leading the evidence. The learned court below in the impugned order has recorded that sufficient opportunity has already been given to the petitioner to adduce evidence and therefore the prayer for recall of the order closing the evidence has been declined. This Court does not find any illegality or material irregularity in the impugned order requiring interference in exercise of jurisdiction under Article 227 of the Constitution of India.

In result, this application is dismissed.

The petitioner shall however be at liberty to

question the validity of the impugned order as provided in Section 105(1) C.P.C. if the suit is ultimately decided against him.

(V. Nath, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.05.2016
Transmission Date	NA